Laws, Resolutions and Memorials

OF THE

STATE OF MONTANA

PASSED BY THE

Twenty-fifth Legislative Assembly
In Regular Session

Held at Helena, the Seat of Government of Said State,
Commencing January 4th, 1937, and
Ending March 4th, 1937

Including Constitutional Amendments Voted Upon by the People
at the General Election Held November 3rd, 1936

PUBLISHED BY AUTHORITY

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CERTIFICATE OF AUTHENTICATION

State of Montana
Department of
Secretary of State
} ss.

I, Sam W. Mitchell, secretary of state of the State of Montana, do hereby certify that the printed laws, resolutions and memorials contained herein are true and correct copies of all the enrolled laws, resolutions, memorials and appropriations that were passed at the twenty-fifth regular session of the legislative assembly of the State of Montana, held at Helena, the seat of government of said state, commencing January 4th, 1937, and concluding March 4th, 1937, and, in addition, true and correct copies of constitutional amendments adopted by the people of Montana at the general election, held November 3d, 1936.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Montana, at Helena, the Seat of Government, this 1st day of May, A. D. 1937.

Great Seal
of the State
of Montana

Sam W. Mitchell

Secretary of State.

OFFICERS AND MEMBERS

OF THE

25th Legislative Assembly of the State of Montana

Governor: ROY E. AYERS
Lieutenant Governor and President of the Senate: HUGH R. ADAIR
Speaker of the House: H. D. ROLPH

STATE SENATORS

NAME	Residence	County	Politics
*Anderson, Alfred R.	Sioux Pass	Richland	Democrat
*Angvick, Lars	Reserve	Sheridan	Republican
Armstrong, B. B.	Livingston	Park	Democrat
*Arnold, S. C.	Broadview	Stillwater	Republican
Baker, Arthur A.	Glendive	Dawson	Republican
*Baker, Finis E.	Libby	Lincoln	Democrat
*Benjamin, H. E.	Shelby	Toole	Democrat
Calder, Thomas	Terry	Prairie	Democrat
*Campbell, John L.	Missoula	Missoula	Republican
Chapman, D. W.	Peerless	Daniels	Democrat
*Cooper, George R.	DeBorgia	Mineral	Republican
*Cotter, Chas. P.	Townsend	Broadwater	Republican
Drumheller, Dan M.	Cut Bank	Glacier	Democrat
*Eaton, Ernest T.	Polytechnic	Yellowstone	Republican
Ecton, Zales N.	Manhattan	Gallatin	Republican
Foor, Arlie M.	Wolf Point	Roosevelt	Republican
*Garrison, J. B.	Reichle	Madison	Republican
*Groff, H. C.	Victor	Ravalli	Democrat
*Hammond, W. L.	Carlyle	Wibaux	Democrat
Harlen, Harry C.	Chinook	Blaine	Democrat
Harris, Orville	Wh. Sulphur Spgs.	Meagher	Republican
*Hollenback, B. D.	Buffalo	Judith Basin	Republican
Kathan, A. E.	Brady	Pondera	Democrat
Keeley, William E.	Deer Lodge	Powell	Republican
Kroman, Charles L.	Miles City	Custer	Republican
Lamp, F. M.	Big Timber	Sweet Grass	Republican
*Larson, T. O.	Choteau	Teton	Republican
*Liess, Frank	Forsyth	Rosebud	Republican
Mahoney, Charles H.	Jordan	Garfield	Republican
Mann, Harry T.	Pryor	Big Horn	Democrat
Metzger, F. C.	Rothiemay	Golden Valley	Democrat
*Meyer, Harry	Butte	Silver Bow	Democrat
Montgomery, George H.	Dillon	Beaverhead	Democrat
Murphy, Thomas F.	Anaconda	Deer Lodge	Democrat
*Nass, J. N.	Glasgow	Valley	Democrat
*O'Day, R. S.	Great Falls	Cascade	Democrat
*Oliver, John	Ekalaka	Carter	Republican
*Page, John R.	Philipsburg	Granite	Democrat
*Pauline, Robert	Kalispell	Flathead	Republican
Plank, Leonard	Chester	Liberty	Democrat
Plumer, A. J.	Hysham	Treasure	Democrat
Robinson, Fred L.	Malta	Phillips	Republican
Robson, Dr. A. F.	McCone City	McCone	Democrat
*Shannon, Ray N.	Thompson Falls	Sanders	Democrat
*Sibbert, Henry N.	Winnett	Petroleum	Republican
Simmons, H. A.	Red Lodge	Carbon	Republican
Smith, Paul W.	Helena	Lewis and Clark	Republican
Starks, Hayes	Joplin	Hill	Democrat
*Stevens, I. Thayer	Harlowton	Wheatland	Republican
*Sullivan, M. J.	Alhambra	Jefferson	Democrat
‡Sullivan, W. P.	Square Butte	Chouteau	Democrat
Swertelle, George A.	Roundup	Musselshell	Democrat
Tierney, W. P.	Ronan	Lake	Democrat
Waite, W. T. (Bill)	Broadus	Powder River	Republican
*Wass, L. M. A.	Roy	Fergus	Democrat
†Weinschrott, John	Plevna	Fallon	Republican

*Holdover. Elected 1934.
†To fill unexpired term of George A. Colbo, Deceased.
‡To fill unexpired term of V. F. Blankenbaker, Deceased.
Secretary of the Senate: GEO. A. BURR.

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House of Representatives

NAME	Residence	County	Politics
Acher, John W.	Zurich	Blaine	Democrat
Alvord, A. A.	Thompson Falls	Sanders	Democrat
Anderson, Andrew E.	Fort Benton	Chouteau	Democrat
Anderson, A. W.	Butte	Silver Bow	Democrat
Anderson, Eric	Regina	Phillips	Republican
Anderson, Hugo	Libby	Lincoln	Democrat
Bjorneby, Emil G.	Kalispell	Flathead	Democrat
Bloom, Edward	Red Lodge	Carbon	Democrat
Bower, Frank A.	Tarkio	Mineral	Democrat
Brayman, C. W.	Missoula	Missoula	Democrat
Brennan, James P.	Sidney	Richland	Democrat
Burns, Ernest	Whitefish	Flathead	Democrat
Campbell, Ray C.	Great Falls	Cascade	Democrat
Chamberlain, Clarence	Sand Creek	McCone	Republican
Chatham, J. F.	Butte	Silver Bow	Democrat
Cohen, A. B.	Butte	Silver Bow	Democrat
Conner, J. B.	Farmington	Teton	Democrat
Crouse, L. E.	Belgrade	Gallatin	Democrat
Cruickshank, Mabel	Bozeman	Gallatin	Democrat
Cusick, W. M.	Kalispell	Flathead	Democrat
Daly, Geo. H.	Billings	Yellowstone	Democrat
DeDobbeleer, Jasper, Sr.	Glasgow	Valley	Democrat
D'Ewart, Wesley A.	Wilsall	Park	Republican
Dougherty, James N.	Elliston	Powell	Democrat
Eggenberger, Andrew D.	Harlowton	Wheatland	Republican
Elliott, Harvey	Missoula	Missoula	Democrat
Finnegan, Frank J.	Anaconda	Deer Lodge	Democrat
Freshman, Walter C.	Butte	Silver Bow	Democrat
Goodwin, Phil C.	Butte	Silver Bow	Democrat
Green, Henry R.	Lindsay	Dawson	Republican
Haight, Herbert H.	Suffolk	Fergus	Democrat
Hamilton, Mrs. W. W.	Dodson	Phillips	Democrat
Hardcastle, Ernest A.	Butte	Silver Bow	Democrat
Haugan, K. O.	Fishtail	Stillwater	Republican
Heavlin, J. B.	Missoula	Missoula	Democrat
Hedden, H. T.	Billings	Yellowstone	Democrat
Hess, H. H.	Havre	Hill	Democrat
Hoiness, Melvin N.	Billings	Yellowstone	Republican
Holecek, J. F.	Lewistown	Fergus	Democrat
Ijams, S. E.	Great Falls	Cascade	Democrat
Jackson, Peter V.	Norris	Madison	Democrat
Joffray, E. N.	Clancy	Jefferson	Democrat
Johnson, Theodore J.	Bloomfield	Dawson	Democrat
Kelson, Charles H.	Shelby	Toole	Republican
Kruse, Albert H.	Brusett	Garfield	Republican
Lambert, H. A.	Havre	Hill	Democrat
Lasby, W. D.	Townsend	Broadwater	Republican
Leeson, George	Bainville	Roosevelt	Republican
Lehrkind, Carl, Jr.	Bozeman	Gallatin	Democrat
Lemmer, Frank	Great Falls	Cascade	Democrat
Levisee, A. B.	Polson	Lake	Democrat
Lippard, Gordon J.	Loma	Chouteau	Democrat
Longenecker, H. H.	Hamilton	Ravalli	Republican
Love, Ed.	Miles City	Custer	Democrat
Lovell, Edward F.	Anaconda	Deer Lodge	Republican
McClain, M. A.	Missoula	Missoula	Democrat
McKenna, George S.	Geyser	Judith Basin	Democrat
McLeod, Archie D.	Great Falls	Cascade	Democrat
Mackie, Robt. W.	Lewistown	Fergus	Democrat
Manning, D. M.	Hysham	Treasure	Democrat
Masterson, James W.	Miles City	Custer	Democrat
Measure, Ambrose G.	Kalispell	Flathead	Democrat
Metcalf, Lee	Stevensville	Ravalli	Democrat
Metlen, Joe	Armstead	Beaverhead	Democrat
Miles, Ben B.	McLeod	Sweet Grass	Republican
Miller, Guy A.	Flaxville	Roosevelt	Democrat
Miller, R. J.	Lodge Grass	Big Horn	Democrat
Minette, Dr. C. H.	Cut Bank	Glacier	Democrat
Mitchell, Harry	Butte	Silver Bow	Democrat
Monahan, George	Livingston	Park	Democrat
Mulholland, M. J.	Butte	Silver Bow	Democrat
Mungas, George M.	Philipsburg	Granite	Republican
Nelson, Wm. J.	Barber	Golden Valley	Democrat
O'Connor, G. W.	Fromberg	Carbon	Republican
O'Shea, Jas. J.	Red Lodge	Carbon	Democrat
Padbury, Fred H.	Helena	Lewis and Clark	Republican
Parker, Clem	Wibaux	Wibaux	Democrat
Peterson, N. A.	Valier	Pondera	Democrat
Peterson, P. C.	Westby	Sheridan	Democrat

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HOUSE OF REPRESENTATIVES—(Continued)

NAME	Residence	County	Politics
Phelan, D. J.	Billings	Yellowstone	Democrat
Reed, W. H.	Turner	Blaine	Republican
Rolph, H. D.	Joplin	Liberty	Democrat
Ruffcorn, George W.	Glasgow	Valley	Democrat
Schneider, M. L.	Baker	Fallon	Democrat
Scofield, Chas. L.	Biddle	Powder River	Republican
Scott, Walter	Roundup	Musselshell	Democrat
Shanley, Geo. H.	Great Falls	Cascade	Democrat
Sherman, Charles H.	Wh. Sulphur Spgs.	Meagher	Democrat
Smith, Sherman W.	Helena	Lewis and Clark	Republican
Sorte, Marvin J.	Scobey	Daniels	Democrat
Speigel, Sam	Butte	Silver Bow	Democrat
Stimatz, Thomas G.	Butte	Silver Bow	Democrat
Stortz, R. Bailey	Forsyth	Rosebud	Democrat
Stromnes, E. J.	Great Falls	Cascade	Democrat
Toomey, Edmond G.	Helena	Lewis and Clark	Republican
Trandum, E. H.	Billings	Yellowstone	Democrat
Tyler, R. G.	Homestead	Sheridan	Democrat
Vanek, Joe	Brooks	Fergus	Democrat
Waldrop, George R.	Winnett	Petroleum	Democrat
Wenger, Edward A.	Anaconda	Deer Lodge	Democrat
Whaley, James	Marsh	Prairie	Democrat
Wood, C. L.	Alzada	Carter	Democrat

Chief Clerk of the House: JOHN J. JEWELL.

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CONSTITUTIONAL AMENDMENTS

An Act to Provide for the Submission to the Qualified Electors of the State of Montana of an Amendment to Article XVI of the Constitution of the State of Montana by Adding Thereto a Section to be Known as Section 8 Prohibiting the Abandonment, Abolition, and/or Consolidation of Counties in Whole or in Part or at All Except by a Majority Vote of the Duly Qualified Electors in the County or Counties Proposed to Be Abandoned, Abolished and/or Consolidated 731

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SESSION LAWS

CHAPTER 1

An Act to Approve, Legalize and Adopt as the Laws of Montana the Revised Codes of Montana of 1935, Prepared by the Code Commissioner Appointed by Authority of Chapter 89 of the Laws of the Twenty-third Legislative Assembly of Montana of 1933.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the Revised Codes of Montana of 1935, in five volumes as compiled, numbered and arranged by the code commissioner appointed by authority of Chapter 89 of the Laws of the Twenty-third Legislative Assembly of Montana of 1933, and as certified to by said code commissioner are hereby, as to both form and substance, approved, legalized and adopted as the laws of Montana now in force and effect and the same are hereby declared to constitute the laws of Montana now in force and effect except such laws as may be adopted by the Twenty-fifth Session of said Legislative Assembly.

Revised Codes of Montana of 1935 approved and legalized.

Section 2. All changes made by said code commissioner in the language or arrangement of any law of the state embodied in said codes and all additions of new sections made by said commissioner to said code, are hereby legalized, approved and given validity.

Changes approved.

Section 3. Nothing herein contained shall be deemed as invalidating or in any manner affecting the legality of any act or thing heretofore or hereafter done by authority of any enactment, which is not included in said Revised Codes of Montana of 1935; and nothing herein contained shall affect the existence, validity, or enforcement of any act, enactment, statute, or code section, omitted by said commissioner from said revision.

Other acts not invalidated.

Section 4. This act shall take effect and be in full force from and after its passage and approval.

Approved January 30, 1937.

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CHAPTER 2

An Act Fixing the Hours at Which the Polls for Special Elections Shall Be Opened and Closed.

Be it enacted by the Legislative Assembly of the State of Montana:

Special election to incur indebtedness.

Section 1. Whenever any special election is held for the purpose of submitting to the qualified electors of any county, high school district, school district, city or town, the question of incurring an indebtedness for any purpose, issuing bonds or making a special or additional levy for any purpose, the polls shall be open at 12 o'clock noon and shall remain open until 8 o'clock P. M. of the same day; provided, that if any such special election is held on the same day as any general, county, school or municipal election or any primary election and at the same polling places with the same judges and clerks of election, then the polls shall be opened and closed at the same hours as the polls for such general, county, school, municipal or primary election.

When polls shall open and close.

In case of general election.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Sectoin 3. This act shall be in full force and effect on and after July 1, 1937.

Approved January 30, 1937.

CHAPTER 3

An Act to Amend Section 2815.77 of the Revised Codes of Montana of 1935, Relating to Permits for Residents and Temporary Residents—Special Permits—Fees, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 2815.77 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Liquor Permits.

"Section 2815.77. **Permits for Residents and Temporary Residents—Special Permits—Fees.** (1) There shall be two classes of permits under this act:

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(a) Individual permits;

(b) Special permits.

Kinds of.

(2) Upon application in the prescribed form being made to the board, or to any official authorized by the board to issue permits, accompanied by payment of the prescribed fee, and upon the board, or such official being satisfied that the applicant is entitled to a permit for the purchase of liquor under this act, the board or such official shall issue to the applicant a permit of the class applied for, as follows:

When permit shall be issued.

(a) An "individual permit" in the prescribed form may be granted to an individual of the full age of twenty-one years, who has resided in the state, for the period of at least one month immediately preceding the date of his making the application, and who is not disqualified under this act, entitling the applicant to purchase liquor for beverage, medicinal or culinary purposes, in accordance with the terms and provisions of the permit, and the provisions of this act, and the regulations made thereunder;

"Individual permit" to whom issued.

Term of permit for resident.

(b) An "individual permit" in the prescribed form may be granted to an individual of the full age of twenty-one years, who is temporarily resident or sojourning in the state, and who is not disqualified under this act, entitling the applicant during a period not exceeding one month to purchase liquor for beverage, medicinal, or culinary purposes, in accordance with the terms and provisions of the permit, and the provisions of this act and the regulations made thereunder.

Temporary resident or sojourning individual.

(c) A "special permit" in the prescribed form may be granted to a druggist, physician, dentist, or veterinary, or to a person engaged within the state in mechanical or manufacturing business, or in scientific pursuits, requiring liquor for use therein, entitling the applicant to purchase liquor for the purpose named in such "special permit", and in accordance with the terms and provisions of such "special permit" and in accordance with the provisions of this act, and the regulations made thereunder;

"Special permits", druggist, doctors and etc.

(d) A "special permit" in the prescribed form may be granted, to a minister of the gospel, entitling the applicant to purchase wine for sacramental purposes only

Ministers of the gospel.

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in accordance with the terms and provisions of such "special permit";

Other special permits, when granted.

(e) A "special permit" in the prescribed form may be granted, when authorized by the regulations, entitling the applicant to purchase liquor for the purpose named in the permit and in accordance with the terms and provisions of such permit, and of this act, and the regulations made thereunder.

Fees for permits.

(3) (a) For an individual permit under clause (a) of subsection 2 hereof—

Individual resident.

Entitling holder to purchase spirits, wine, beer and malt liquor, the fee shall be fifty cents;

Entitling holder to purchase beer only, the fee shall be fifty cents;

Entitling holder to make a thirty day purchase, whether of spirits, wine, beer or malt liquor, the fee shall be twenty-five cents;

Individual temporary resident.

(b) For an individual permit under clause (b) of subsection 2 hereof—

Entitling holder to purchase spirits, wine, beer or malt liquor, the fee shall be fifty cents;

Entitling holder to make a single purchase whether of spirits, wine, beer or malt liquor, the fee shall be twenty-five cents;

Fee for special permits.

(c) The fees for a "special permit" under clauses (c), (d) and (e) of subsection 2 hereof shall be fixed and determined by the regulations made hereunder.

(4) No one, who has been convicted of keeping, frequenting or being an inmate of a disorderly house, shall be entitled to a permit until after the expiration of one year from the date of such conviction.

Cancellation and refusal of permits.

(5) Notwithstanding any other provisions of this act, the board may in its discretion cancel any subsisting permit or refuse or direct any official authorized to issue permits to refuse to issue a permit to any person and no official so directed shall issue any such permit."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

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Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 2, 1937.

CHAPTER 4

An Act to Amend Section 5109, Revised Codes of Montana for 1935, Relating to Fire Departments in Cities and Towns of the State and Providing for the Establishment, Organization, Equipment, Management and Control Thereof, as Part of the Police Power of the State in the Interest of Public Safety.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 5109, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Fire department provided for cities and towns.

Section 5109. (a) There shall be in every city and town of this State a fire department, which shall be organized, managed and controlled as in this act provided.

City council to have charge of.

Powers of councils.

(b) The council of cities and towns shall have charge of and supervision over the fire department thereof, with power to regulate its duties, to maintain a fire alarm telegraph, to erect engine, hose and hook-and-ladder houses, and provide engines and other implements and apparatus for the extinguishing of fire, and make such other ordinances not inconsistent with the provisions of this act and the other laws of the state for the government, direction and management of the fire department.

Saving clause.

Section 2. If any clause, sentence, section, paragraph or part of this act shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid or inoperative, such judgment shall not effect, impair or invalidate the remainder of this act but shall be confined in its operation to the clause, sentence, section, paragraph or part directly adjudged to be invalid and inoperative.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

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Section 4. This act is hereby declared to be enacted as a part of the police power of the State, in the interest of public safety, and shall be in full force and effect from and after its passage and approval.

Approved February 2, 1937.

CHAPTER 5

An Act Authorizing, With the Approval of the Governor, the Appointment and Removal of All Assistants, Deputies, Agents, Attorneys, Administrators, Engineers, Experts, Clerks, Accountants, Stenographers, and Executive Attaches of All Civil Executive State Offices, Boards, Commissions, Bureaus, Departments, or Authorities of Any Kind Appointed by the Governor, and Not Otherwise Provided for by Law: Prohibiting Such Civil Executive State Offices, Boards, Commissions and Bureaus, Departments and Authorities of Any Kind Appointed by the Governor From Exceeding in the Aggregate Their Fiscal Year Appropriation Made by the Legislature: and Repealing Sections 273 and 275 Revised Codes of Montana, 1935, and All Other Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Written approval of governor required for appointment of deputies, assistants, etc.

Section 1. Every civil executive state officer, board, commission, bureau, department or authority of any kind appointed by the governor shall not appoint any assistants, deputy, agent, attorney, administrator, engineer, expert, clerk, accountant, stenographer, or executive attache, nor shall any such civil executive state office, board, commission, bureau, department or authority fix or designate the number, compensation, term or tenure of office of any such assistant, deputy, agent, attorney, administrator, engineer, expert, clerk, accountant, stenographer, or executive attache, without first having the written approval of the governor, which approval shall be filed with the clerk of the state board of examiners; provided, however, that the provisions of this act shall not apply to nor affect the assistants, deputies, agents, attorneys, administrators, engineers, experts, clerks, accountants, stenographers, or other executive attaches

Approval where filed.

Not to affect where fixed by law.

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whose term and tenure of office, duties and compensation are now fixed by law; and provided further that the total expenses of any such office, board, commission, bureau, department or authority of any kind shall not exceed in the aggregate during any fiscal year the amount appropriated by the Legislature for such fiscal year for such office, board, commission, bureau, department, or authority of any kind.

Expense of office not to exceed appropriation.

Section 2. Whenever, in his judgment, the governor deems it for the best interest of the service and of the State that any such assistant, deputy, agent, attorney, administrator, engineer, expert, clerk, accountant, stenographer, or executive attache allowed by this act, be removed, or the office or position which he holds be discontinued, the governor may make such removal, or discontinue such office or position, and the filing of his proclamation thereof with the secretary of the state board of examiners, shall effect such removal or discontinuance.

Removal of officer or discontinuance of office by governor.

Proceedure for.

Section 3. Upon the passage and approval of this act every civil executive state officer, board, commission, bureau, department or authority of any kind, appointed by the governor, shall report to him the names of and the duties assigned to every such assistant, deputy, agent, attorney, administrator, engineer, expert, clerk, accountant, stenographer, or executive attache, and if the governor does not approve of their employment and appointment within thirty days thereafter and file such approval in writing with the secretary of the state board of examiners, their employment and appointment shall be terminated and discontinued.

Approval within 30 days of present assistants required.

Section 4. Sections 273 and 275 of the Revised Codes of Montana, 1935, and all other acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 5. This act shall be in full force and effect from and after its passage and approval.

Approved February 8, 1937.

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CHAPTER 6

An Act Validating, Ratifying, Approving and Confirming Bonds and Other Instruments or Obligations Heretofore Issued by Public Bodies of This State and All Proceedings Heretofore Taken for the Authorization and Issuance of Bonds by Such Public Bodies.

Be it enacted by the Legislative Assembly of the State of Montana:

Name of Act.

Section 1. This act may be cited as "The 1937 Bond Validating Act".

Definitions.

Section 2. The following terms, wherever used or referred to in this act, shall have the following meaning:

"Public Body."

(a) The term "public body" shall include a county, city, town, school district, irrigation district, drainage district, special improvement district, or any other political or governmental subdivision of the State of Montana, and shall also include the state board of education, the state board of examiners, the state water conservation board, the state highway commission, or any other governmental agency of this state.

"Bonds."

(b) The term "bonds" shall include bonds, notes, warrants, debentures, certificates of indebtedness, temporary bonds, temporary notes, interim receipts, interim certificates and all instruments or obligations evidencing or representing indebtedness, or evidencing or representing the borrowing of money, or evidencing or representing a charge, lien or encumbrance on specific revenues, income or property of a public body, including all instruments or obligations payable from a special fund.

All bonds and proceedings validated.

Section 3. All bonds heretofore issued for any of the purposes for which bonds may be issued by any public body of this state and all proceedings heretofore taken for the authorization and issuance of bonds by such public body, and the sale, exchange, execution and delivery thereof are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power (other than constitutional) of such public body, or the governing board or commission or officers thereof, to authorize and issue such bonds, or to sell, exchange, execute or deliver the same, and notwithstanding any defects or irregularities (other than constitutional) in such proceedings or in such sale, exchange, execution or delivery;

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and bonds of such public bodies, whether issued or hereafter issued under the authority of proceedings heretofore taken, are and shall be binding, legal, valid and enforceable obligations of such public body.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved February 8, 1937.

CHAPTER 7

An Act to Amend Section 1224.14 Revised Codes of Montana, 1935, Relating to the Percentage of Electors Required to Vote on and to Authorize a School Bond Issue; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1224.14, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows: Amending clause.

"Section 1224.14. **Percentage of Electors Required to Authorize Bond Issue.** Whenever the question of issuing bonds for any purpose is submitted to the qualified electors of a school district at either a general or special school election not less than forty (40) per centum of the qualified electors entitled to vote on such question at such election must vote thereon, otherwise such question shall be deemed to have been rejected; provided, however, that if forty (40) per centum or more of such qualified electors do vote on such question at such election and a majority of such votes shall be cast in favor of such proposition, then such proposition shall be deemed to have been approved and adopted." 40% of qualified electors of school district must vote to authorize bond issue. Majority required to approve.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 9, 1937.

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CHAPTER 8

An Act to Amend Sections 9127 and 9192 of the Revised Codes of Montana of 1935, Relating to What Pleadings Are Allowed, and Time for Amendment, Answer, or Reply After Ruling on Demurrer or Motion, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 9127 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Pleadings allowed plaintiff.

"9127. **What Pleadings Are Allowed.** The only pleadings allowed on the part of the plaintiff are:

1. The complaint;
2. The demurrer to the answer;
3. The reply to defendant's answer;
4. Any motion.

And on the part of the defendant:

Pleadings allowed defendant.

1. The demurrer to the complaint;
2. The answer;
3. The demurrer to reply;
4. Any motion."

Amending clause.

Section 2. That Section 9192 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Time allowed after decision on demurrer or motion.

"9192. **Time for Amendment, Answer or Reply After Ruling on Demurrer or Motion.** When a demurrer or motion to any pleading is sustained or overruled, and time to amend, answer, or reply is given, the time so given runs from service of notice of the decision or order, except when the party against whom the decision is made is in court. In such case the time runs from the making of the decision or order."

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

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Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved February 9, 1937.

CHAPTER 9

An Act to Amend Section 4922, Revised Codes of Montana, 1935, Relating to the Fees of County Coroners.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 4922, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows: Amending clause.

"Section 4922. **Fees of Coroner.** The coroner is entitled to receive and collect for his own use the following fees: Fees of coroner.

For each day or fraction of day engaged in making an investigation relative to a death, whether an inquest is later held or not, the sum of five dollars ($5.00), provided that not more than one day's fees shall be charged for making an investigation in any one case, except in counties of the first, second and third class; Investigation.

For each day or fraction of day engaged in holding an inquest, five dollars ($5.00), provided, that not more than two days fees shall be charged for holding an inquest in any one case; Inquest.

For subpoenaing each witness, including copy of subpoena, thirty cents (30c); Subpoenaing witnesses.

For summoning each juror, including copy of summons, thirty cents (30c); Summoning jurors.

For each oath administered, five cents (5c); Oath.

For making transcript of testimony, per folio, fifteen cents (15c); Transcript of testimony.

For each mile actually traveled in the performance of any duty, seven cents (7c); Mileage.

For filing papers, each, five cents (5c); Filing papers.

The total amount of fees allowed by the board of county commissioners to a coroner, except when acting as sheriff, Limit on fees.

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must not exceed twenty-one hundred dollars ($2100.00) in any one year, including compensation paid all clerks, stenographers and other clerical assistants employed by him, provided the coroner in a county having a population of 50,000 or more shall receive a salary of not more than $3300.00 per year and mileage as above provided in lieu of all fees above mentioned, and all clerical and stenographic help shall be included in such salary. Said population to be based on the United States Census of 1930.

Salary of coroner in county having a population of 50,000 or more.

Fee of acting coroner.

A justice of the peace, acting as coroner, is allowed the same fees as the coroner, and no more.

Fees of coroner when acting as sheriff.

If acting as sheriff, the coroner is allowed the same fees as sheriff or constable for like services."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 10, 1937.

CHAPTER 10

An Act Granting to Non-resident Owners and Operators of Motor Vehicles the Privilege of Using the Highways of the State of Montana and Its Political Subdivisions and Providing for the Appointment by Such Non-resident Users of Such Highways and by Resident Users of Such Highways of the Secretary of State as Attorney in Fact for Such Operators of Motor Vehicles for Service of All Lawful Process in Any Action or Proceeding Against Such Operators of Motor Vehicles Growing Out of Any Accident, Collision, or Liability in Which Such Operators of Motor Vehicles May Be Involved While Operating Motor Vehicles Upon Such Highways; and Providing That the Act Shall Not Apply if the Defendant May With Due Diligence Be Found and Personally Served With Process in the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

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Non-resident owners and operators granted privilege of use of highways of state.

Section 1. Subject to a compliance with the motor vehicle laws of this State and the acceptance of the provisions of this act, non-resident owners and operators of motor vehicles hereby are granted the privilege of using the highways, roads and streets of this State and its political subdivisions, and the use of such highways, roads and streets shall be deemed and construed to be an acceptance of the provisions of this act.

Secretary of State to be attorney of non-resident for service of summons and process against him for highway accidents.

Section 2. The acceptance by a non-resident of the rights and privileges conferred by the laws of this State to use the highways, roads and streets of the state and its political subdivisions as evidenced by his operating a motor vehicle thereon shall be deemed equivalent to and construed to be an appointment by such non-resident of the secretary of state of the State of Montana to be his true and lawful attorney upon whom may be served all lawful summons and processes against him growing out of any accident, collision, or liability in which said non-resident may be involved while operating a motor vehicle upon such highways, roads or streets, and said acceptance or operation shall be a signification of his agreement that any summons or process against him which is so served shall be of the same legal force and validity as if served on him personally within the State of Montana.

Operation of motor vehicle deemed equivalent to an appointment of Secretary of State as attorney for such service of process.

Section 3. The operation by any person, by himself or his agent, of any motor vehicle, whether registered or unregistered, and with or without a license to operate, on any public way in this State, shall be deemed equivalent to an appointment by such person of the secretary of state, or his successor in office, to be his true and lawful attorney upon whom may be served all lawful processes in any action or proceeding against him, growing out of an accident or collision in which he or his agent may be involved while operating a motor vehicle on any public way in this State, and such operation shall be a signification of an agreement by such person that any such process against him which is served upon the secretary of state or his successor in office shall be of the same force and validity as if served upon him personally. This section shall not apply in case of any cause of action, for the service of process in which provision is made by section two, nor shall it authorize service of process upon any person who may with due diligence be

Effect of such service of process.

Exceptions.

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found and personally served with process within the State of Montana.

Service of process, how made.

Fee for.

Section 4. Service of such summons or process under sections two and three shall be made by leaving a copy thereof with a fee of two dollars ($2.00) with the secretary of state of the State of Montana, or in his office, and such service shall be sufficient and valid personal service upon the defendant.

Notice to be given by registered mail.

Provided, That notice of such service and a copy of the summons or process is forthwith sent by registered mail requiring personal delivery, by the plaintiff to the defendant and the defendant's return receipt and plaintiff's affidavit of compliance herewith are appended to the process and entered as a part of the return thereof:

Personal service out of State to relieve from mailing.

Secretary of state to mail defendant copy of process.

Defendant may be granted continuances.

Provided, further, that personal service outside of this State in accordance with the provisions of the statutes thereof relating to a personal service of summons outside of this State shall relieve a plaintiff from mailing a copy of the summons or process by registered mail as hereinbefore provided. The secretary of state shall forthwith send one of such copies by mail, postage prepaid, addressed to the defendant at his address if known to the secretary of state. The court in which the action is brought may order such continuances as may be necessary to afford the defendant reasonable opportunity to defend the action.

Fee may be taxed as costs.

Section 5. The fee of two dollars ($2.00) paid by the plaintiff to the secretary of state shall be taxed as part of his costs if he prevails in the action.

Record of summons and process to be kept.

Section 6. The secretary of state shall keep a record of all such summons and process which shall show the day of service.

Section 7. This act shall be in full force and effect from and after its passage and approval.

Approved February 10, 1937.

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CHAPTER 11

An Act Authorizing and Directing the State Treasurer to Transfer the Sum of Fourteen Thousand Three Hundred Twelve Dollars and Eighty Seven Cents ($14,312.87) From the State Public School General Fund, to the Public School Interest and Income Fund.

Be it enacted by the Legislative Assembly of the State of Montana:

Transfer of school funds authorized.

Section 1. The state treasurer of the State is hereby authorized and directed to transfer from the state public school general fund the sum of fourteen thousand three hundred twelve and 87/100 dollars ($14,312.87) to the public school interest and income fund as soon as this act has been approved by the governor, or as soon thereafter as sufficient money has accumulated in the said fund to make the said transfer.

Section 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Section 3. This act shall be in full force and effect from and after its passage and approval by the governor.

Approved February 10, 1937.

CHAPTER 12

An Act to Amend Section 5278.1 of the Revised Codes of Montana, 1935, relating to the Issuance of Bonds by Cities and Towns; Validating Proceedings for the Issue and Sale of Bonds by Cities and Towns Commenced or completed in Accordance With the Provisions of Chapter 399 of the Political Code of the Revised Codes of Montana, 1935, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 5278.1 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

5278.1. **Creation of Indebtedness—Submission to Taxpayers.** Whenever the council of any city or town having a corporate existence in this State, or hereafter organized under any of the laws thereof, shall deem it necessary to

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Issuance of bonds by cities and towns.

Election for.

Election not necessary for refunding bonds, when.

issue bonds for any purpose whatever, under its powers as set forth in any statute or statutes of the State of Montana, the question of issuing such bonds shall first be submitted to the qualified electors of such city or town in the manner hereinafter set forth; provided, however, that it shall not be necessary to submit to such electors the question of issuing funding or refunding bonds to fund or refund warrants or bonds issued prior to and outstanding on the first day of July, 1931, or to fund or refund warrants or bonds issued prior to and outstanding on the first day of July, 1936, in an amount not greater than the outstanding warrant indebtedness on the first day of July, 1933. In order to issue bonds to fund or refund warrants or bonds issued prior to and outstanding on July 1, 1931, or to fund or refund warrants or bonds issued prior to and outstanding on July 1, 1936, it shall only be necessary for the council, at a regular or duly called special meeting, to pass and adopt a resolution setting forth the facts in regard to the indebtedness to be funded or refunded, showing the reason for issuing such bonds and fixing and determining the details thereof, giving notice of the sale thereof in the same manner that notice is required to be given of the sale of bonds authorized at an election, and then following the procedure prescribed in this act for the sale and issuance of such bonds.

Procedure to issue refunding bonds.

Bond proceedings instituted under Chapter 399 of the Political Code of the R. C. M. 1935 validated.

Section 2. Where prior to the enactment of this chapter proceedings for the issue and sale of bonds by any city or town in this State under its powers as set forth in any statute or statutes of the State of Montana have been commenced or completed in accordance with the provisions of Chapter 399 of the Political Code of the Revised Codes of Montana, 1935, such proceedings shall be held valid and sufficient and the completion of such proceedings under the authority of this chapter is hereby authorized and said proceedings when completed shall be of the same force and effect as if the provisions of this chapter had been in effect when said proceedings were commenced.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Section 4. This act shall be in full force and effect from and after the date of its passage and approval.

Approved February 10, 1937.

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CHAPTER 13

An Act to Amend Section 7189.1 of the Revised Codes of Montana of 1935, the Same Being Section 1 of Chapter 54 of the Laws of 1923, Relating to Irrigation Districts.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 7189.1 of the Revised Codes of Montana of 1935, the same being Section 1 of Chapter 54 of the Laws of 1923, be, and the same is hereby, amended to read as follows:

District court to retain jurisdiction over petitions establishing irrigation districts.

Section 7189.1. The district court shall retain jurisdiction of any petition presented to establish an irrigation district or to enlarge and increase its boundaries, or to exclude land therefrom, for the purpose of correcting any omissions, defects or errors in the proceedings of said court, and shall have power to correct, and if necessary to amend the order of the district court establishing the district or any order extending the boundaries thereof, or any order excluding lands therefrom, including the description of lands included or intended to be included in the district, or excluded therefrom or intended to be excluded, the boundaries of the divisions into which it is divided, and any other matter which shall be before the court on the application to create the district, or to enlarge or extend its boundaries, or to exclude lands therefrom, and shall have and is hereby granted power and authority on application of the board of commissioners of the district, to correct and amend the terms of any order or judgment of said court so that the same shall conform to the provisions of the statute under the authority of which such order was made. The board of commissioners of any district may adopt a resolution directing its president and secretary to prepare, execute and file with the clerk of the district court a petition, which shall set forth the following matters:

Court may amend or modify orders concerning districts.

Board of commissioners of district may apply for modification.

Petition for modification.

Contents of petition.

(1) The name of the district and a reference to the order in which the defect, error or omission, errors in description of lands included or excluded, or departure from the statute occurred;

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(2) A statement of the defects, errors, omissions, irregularities, errors in description of lands included or excluded, or variance from the statutory requirements;

(3) A prayer for an order correcting said defects, errors, omissions or irregularities.

Procedure where there is error in description of land.

If the error, defect, omission, irregularity or variance is in the description of any land or lands embraced in the district, the petition shall set forth the correct description of said lands, the names of the holders of title, or evidence of title thereto, ascertained in the manner provided in section 7166 of this code; and if any holder is a non-resident of the county or counties in which the district lies, the post office address of such non-resident owner if known. Upon the filing of said petition, the court shall direct notice of the hearing thereof to be given in such manner as shall be deemed necessary to protect the rights and interests of the parties, and after a hearing of any parties intervening, shall enter an order correcting the said defects, errors, omissions, or irregularities; provided, however, that if the defects, errors, omissions or irregularities are in the description of the lands embraced in the district, the district court or judge shall direct the clerk of said court to publish, at least once a week for two successive calendar weeks, in some newspaper published in said county where said petition is filed, a copy of said petition, together with a notice stating the time and place by said district court fixed, when and where a hearing on said petition will be had, and, if any portion of the lands within said district lies within any other county or counties said petition and notice shall be published as above provided in a newspaper published in each such other county. If there be no newspaper published in such county, such petition and notice may be published in an adjoining county. The first publication of said petition and notice shall be not less than thirty days prior to the time mentioned in said notice for said hearing. If any holder of title or evidence of title to lands within the district is a non-resident of the county or counties in which the district lies, the clerk of said court shall, within three days after the first publication aforesaid, mail a copy of said petition and notice to each such non-resident, whose post office address is stated in said petition. The certificate of the clerk of the district court, under the

Notice of hearing to be given.

Order correcting to be made.

Notice required where defect is in description of land.

Notice where land in more than one county.

Time for publication of notice.

Notice to non-resident.

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Evidence of publication of notice.

seal of the court, as to the facts of the publishing and mailing of said petition and notice, affixed to a copy of said notice, shall be sufficient evidence of such facts.

Hearing on petition.

At the time specified in the notice the district court, in which the petition aforesaid is filed, shall hear the petition but may adjourn such hearing from time to time, and may continue the hearing for want of sufficient notice or other good cause. The court, upon application of the petitioners or any person or persons interested, shall permit the petition to be amended and may order further or additional notice to be given. Upon such hearing, all persons interested may appear and contest the application for the order prayed for in the petition, and the contestants and petitioners may offer any competent evidence pertinent to the prayer of the petition.

Amendment of petition.

Evidence admissible on hearing.

Court may make changes in description of land.

The court may make such changes in the description of the lands embraced within the limits of the district, as may be deemed advisable, or as fact, right and justice may require, but shall not exclude from the district any lands described as a part of said district in the order creating it, after the district has issued bonds or entered into a contract with the United States under Section 7174 of this code; (provided, however, that such lands may be excluded from a district which has entered into a contract with the United States under said section, provided the secretary of the interior shall give his consent to such exclusion).

Limitations on.

Court to make order on final hearing.

If, on final hearing, it is found by the court that the petition does not substantially comply with the foregoing requirements of this section, or that the facts therein stated are not sustained by the evidence, then the court shall dismiss the petition at the cost of the petitioners, and shall make and enter an order to that effect, but if it is found that said petition substantially complies with said requirements, and that the facts therein stated are sustained by the evidence, the court shall make and enter an order in accordance with the prayers of the petition.

Conclusiveness of orders.

All orders and findings of the district court, made under the provisions of this Section, shall be conclusive upon all owners of lands within the district; and shall be final unless appealed from to the supreme court within sixty days from the date of entry of such order. A copy

Appeal, time for.

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Order to be filed with clerk and recorder.

of such order, duly certified to by the clerk of said court, shall be filed for record within thirty days after such order is made and entered with the county clerk and recorder of the county wherein the lands included within such district are situated; provided, however, that there shall be omitted from such copy lands not situated in the county in which such copy is filed.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved February 10, 1937.

CHAPTER 14

An Act to Amend Section 1805.32 of the Revised Codes of Montana of 1935, Relating to Leasing, Assignment, and Sub-leasing of State Lands.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 1805.32 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Procedure for assignment of leases on state lands.

"Section 1805.32. **Leases May Be Assigned—Preference—Sub-leasing—Actual Users to Be Given Preference.** Leases to state lands may be assigned on blanks provided for that purpose by the commissioner, but no such assignment shall be binding on the state unless the assignment is filed with the commissioner, approved by him and payment made of the assignment fee of one dollar ($1.00).

Preference.

Preference shall always be given to the applicant who wants the land for his own individual use so that the full advantage coming from the leasing and use of such lands may reach those who actually till the soil, and so that they shall not be compelled to pay a higher rental than that due the state. If a lessee sub-leases state lands on terms less advantageous to the sub-lessee than the terms given by the state, his lease shall be subject to cancellation by the state board of land commissioners after hearing, duly held on the facts involved. In any case where state land is sub-leased by any lessee of state lands, such sub-lease shall be illegal unless a copy of the sub-lease has been filed with the state land office

Conditions of assignment.

Terms of.

Filing and approval of.

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and approved by the commissioner of state lands and investments."

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 10, 1937.

CHAPTER 15

An Act Relating to Hours of Work of Members of Paid Fire Departments of Cities of the First Class, Providing a Minimum Compensation for Members of Paid Fire Departments of Cities of the First Class, Providing Penalties for a Violation Thereof, and Repealing All Acts or Parts of Acts in Conflict Therewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The city council, city commission, or other governing body in cities of the first class, shall divide all members of the paid fire department into platoons of three shifts. The members of each shift shall not be required to work or be on duty more than eight (8) hours of each consecutive twenty-four hours, except in the event of a conflagration or other similar emergency when such members or any of them may be required to serve so long as the necessity therefor exists. Each member shall be entitled to at least one (1) day off duty out of each eight-day period of service without loss of compensation.

Fire department to be divided into platoons of three shifts.

8 hour shifts.

1 day off each week.

Section 2. There shall be paid to each member of the fire departments of cities of the first class of the State of Montana a minimum wage for a daily service of eight (8) consecutive hours work of at least one hundred and sixty and no/100 dollars ($160.00) per month for the first year of service, and thereafter of at least one hundred and sixty and no/100 dollars ($160.00) per month, plus one dollar ($1.00) per month for each additional year of service up to and including the tenth year of such additional service, it being hereby expressly declared the purpose and intent of this act to fix the

Minimum wage of fireman.

Amount of.

Yearly increase of wage.

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minimum wage of members of the fire department of said cities of the first class of the State of Montana at the sum of one hundred and sixty and no/100 dollars ($160.00) per month and to increase said compensation annually thereafter at the rate of not less than one dollar ($1.00) per month for each additional year of active service after the first year thereafter rendered by them, not exceeding ten (10) years of such service after the first year.

Maximum increase.

Penalty for violation.

Section 3. **Violation of This Act Shall Be Deemed a Misdemeanor; Penalty.** Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than one hundred ($100.00) dollars, or more than six hundred dollars ($600.00), or by imprisonment in the county jail for not less than thirty (30) days or more than seven (7) months, or by both such fine and imprisonment.

Saving clause.

Section 4. If any clause, sentence, section, paragraph or part of this act shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid or inoperative, such judgment shall not affect, impair or invalidate the remainder of this act but shall be confined in its operation to the clause, sentence, section, paragraph or part directly adjudged to be invalid and inoperative.

Repealing clause.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Section 6. This act shall be in full force and effect from and after the date of its passage and approval.

Approved February 10, 1937.

CHAPTER 16

An Act to Amend Sections 1301.1 and 1301.2 of the Revised Codes of the State of Montana for 1935, Relating to Emergency Relief by the Creation of High School Districts, and Authorizing the Board of Trustees of Said High School Districts to Borrow Money and to Enter into Contracts and Arrangements for the Repair, Improvement, Equipment, and Construction of Buildings and Public Works, Providing for Elections

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and Procedure to Be Followed by High School Districts.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1301.1 of the Revised Codes of the State of Montana of 1935, be, and the same is hereby amended to read as follows:

Amending clause.

"Section 1301.1. In any county having a high school the board of trustees of the county high school, if there be one, and the boards of trustees of any school districts maintaining high schools, are hereby designated as the boards of trustees of the respective high school districts established under this act.

Board of trustees of high schools, how designated.

To effectuate the purpose of this act, the board of trustees of any high school district, as herein provided for, is hereby authorized to undertake a program of public works in the construction, improvement, repair of buildings, and equipment for the same for the use of any or all high schools in such high school district. Such proceedings may be commenced by resolution upon the part of such board of trustees of such high school district of its own motion and without any petition being filed therefor."

Board authorized to construct public works.

Procedure for.

Section 2. That Section 1301.2 of the Revised Codes of the State of Montana of 1935, be, and the same is hereby amended to read as follows:

Amending clause.

"Section 1301.2. In all counties having a high school, or high schools, a commission consisting of the county commissioners and the county superintendent of schools shall at the request of any high school board of trustees in the county, divide the county into high school districts for the purpose of this act, provided that the boundaries established by said commission shall be subject to the approval of the superintendent of public instruction.

County to be divided into high school districts.

In creating such districts the commission shall give first consideration to the factor of convenience of the patrons of the several schools. Common school districts may be grouped for the purpose of this act and when practicable high school districts shall be made up of contiguous and adjacent common school districts but the commission must take into consideration the existence or non-existence of obstacles to travel, such as mountains

What the commission shall consider in creating districts.

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and rivers and existence or non-existence of highways and distances to high school. No common school districts shall be divided for the purposes of this act but must be made a part of a high school district in its entirety."

Repealing clause.

Section 3. All acts or parts of acts in conflict herewith are hereby repealed.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved February 10, 1937.

CHAPTER 17

An Act to Amend Chapter 301 Revised Codes of Montana, 1935, by Adding a New Section to Be Known as Section 3444.1 Requiring Sampling Works or Smelter to Mail to the Lessee a Statement of the Gross and Net Proceeds of Ores Bought or Treated From Lessors of Mines; and, to Amend Section 3446 Providing Penalty for Violation Thereof.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Chapter 301 of the Revised Codes of the State of Montana, 1935, be amended by adding a new section to be known as Section 3444.1.

Statement of proceeds of ore to be mailed to lessees.

"Section 3444.1. **Sampling Works and Smelters to Mail Statement to Lessee.** That all sampling works and smelters within this State shall mail a duplicate copy of any statement showing the gross and net proceeds of all ores bought or treated from lessors of mines, to the lessee or lessees of the mine or mining claim from which the same shall have been extracted at the same time such statement is furnished to the lessor of said mine or mining claim or shipper of such ore."

Amending clause.

Section 2. That Section 3446 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Penalty for violations of Act.

"Section 3446. **Smelters—Penalty for Violation.** Any person or corporation operating any sampling works, or smelter, within this State who shall violate any of the

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provisions of Sections 3444 and 3444.1 of this code shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine not less than fifty ($50.00) dollars, nor more than one hundred ($100.00) dollars."

Repealing clause.

Section 3. All acts or parts of acts in conflict herewith are hereby repealed.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved February 10, 1937.

CHAPTER 18

An Act to Amend Section 104 of the Revised Codes of Montana, 1935, Relative to the Form of Ballot of Initiative and Referendum Measures and Repealing All Acts in Conflict Therewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 104 of the Revised Codes of Montana, 1935, be amended so as to read as follows:

Manner of voting.

Form of ballot to be determined by the attorney general.

"Section 104. **Manner of Voting—Ballot.** The manner of voting on measures submitted to the people shall be by marking the ballot with a cross in or on the diagram opposite and to the left of the proposition for which the voter desires to vote. The form of ballot to be used on measures submitted to the people shall be submitted to and determined by the attorney general of the State of Montana. The following is a sample ballot representing negative vote:

Sample ballot.

☐ For Initiative Measure No. 6
Relating to Duties of Sheriffs.

☒ Against Said Measure No. 6.

☐ For Referendum Measure No. 7
Relating to Purchase of Insane Aslyum.

☒ Against Said Measure No. 7."

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Repealing clause.

Section 2. That all acts and parts of acts in conflict herewith are hereby repealed.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 10, 1937.

CHAPTER 19

An Act to Amend Sections 10416 and 10416.1 of the Revised Codes of Montana of 1935, Relating to Sale of and Power to Mortgage Right of Dower of Insane or Incompetent Married Woman, or of Dower of Insane or Incompetent Widow—Guardian, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 10416 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Sale of right of dower of insane married woman permissible.

"Section 10416. **Sale of Right of Dower of Insane or Incompetent Married Woman, or of Dower of Insane or Incompetent Widow.** The right of dower of an insane married woman, or of an otherwise judicially declared mentally incompetent married woman, or dower of an insane widow or of an otherwise judicially declared mentally incompetent widow, may be sold by her guardian, and the title to the real estate transferred to the purchaser, under the direction of the court or judge, in the same manner and with like effect as the property of any insane person may be sold and transferred."

Amending clause.

Section 2. That Section 10416.1 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Right of dower may be mortgaged.

"Section 10416.1. **Power to Mortgage Right of Dower of Insane or Incompetent Married Woman, or of Dower of Insane or Incompetent Widow—Guardian.** The right of dower of an insane married woman, or of an otherwise judicially declared mentally incompetent married woman, or dower of an insane widow, or of an otherwise judicially declared mentally incompetent widow, may be mort-

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gaged by her guardian for the purpose of paying either debts, costs and charges of maintenance, charges of administration or to pay, reduce, extend, or renew some lien or mortgage already subsisting on said right of dower or dower in real property or for the purpose of benefiting or improving the real estate in which said insane or incompetent married woman, or said insane or incompetent widow, has a right of dower or dower and to obtain an order of court to mortgage such right of dower or dower interest, the guardian shall take the same proceedings provided by section 10427 of this Code. The right of dower of an insane or incompetent married woman, or dower of an insane or incompetent widow, shall be deemed property for the purpose of authorizing the appointment of a guardian of her estate."

Purposes for which dower may be mortgaged.

Procedure for.

Dower right deemed property.

Section 3. All Acts and parts of Acts in conflict herewith are hereby repealed.

Repealing clause.

Section 4. This Act shall be in full force and effect from and after its passage and approval.

Approved February 17, 1937.

CHAPTER 20

An Act to Provide for the Payment of Delinquent Personal Property Taxes, and Defining the Procedure of the County Treasurer Where Personal Property Is Seized for the Payment of Such Taxes, and Providing a Time When Such Personal Tax Can Be Paid Without Penalty or Interest.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That from and after the passage and approval of this Act, any person having an equitable or legal interest in any personal property on which the taxes have become delinquent prior to December 1, 1936, shall be permitted to redeem such personal property from tax lien by paying the original tax due thereon and without the payment of penalty or interest thereon, provided that such personal tax is paid on or before the first day of December, 1938. If such taxes are not paid on or before the first day of December, 1938, then such

Delinquent personal property taxes may be paid without penalty and interest if paid by December 1st, 1938.

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redemption from tax lien can only be made by paying the original tax, together with penalty and accrued interest, as provided by law.

Treasurers to publish notice of the rights under Act within 60 days.

Section 2. County treasurers and city treasurers in their respective counties and cities shall cause to be published in at least one issue of the official newspaper of such county or city a notice of such right of redemption and extension of time, such notice to be published within sixty days from the approval of this act. It shall be the duty of the county treasurer of each county to mail notice to delinquent taxpayers to the last known address, advising them of their rights under the provisions of this chapter within sixty (60) days after the approval of this act.

Notice to be mailed to delinquent taxpayers.

Seizure and sale of property, limitations on.

Section 3. Any county or city treasurer, or any other county officer having authority to seize and sell personal property for the payment of delinquent taxes, shall sell only such portion of the property seized for sale as will pay the original tax without penalty or interest.

Saving clause.

Section 4. If any section, subsection, sentence, clause or phrase of this Act is for any reason held unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislative Assembly declares that it would have passed this act and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more sections, subsection, sentence, clause or phrase be declared unconstitutional, the same being necessary to the welfare of the State of Montana and the political subdivisions thereof by reason of the existence of an extraordinary emergency.

Section 5. This act shall be in full force and effect from and after its passage and approval.

Conflicting laws stayed to December 1st, 1938.

Section 6. This act stays the operation of all acts and parts of acts in conflict herewith until the first day of December, 1938, but does not otherwise effect such acts or parts of acts.

Approved February 17, 1937.

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CHAPTER 21

An Act to Amend Section 11712 of the Revised Codes of Montana for 1935, Relating to Property Feloniously Taken in One County and Brought Into Another, and Apportioning Costs of Prosecution and Trial by the Judge.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 11712 of the Revised Codes of Montana for 1935, be, and the same is hereby amended to read as follows:

"Section 11712. **Property Feloniously Taken in One County and Brought Into Another, and Apportioning Costs of Prosecution and Trial by the Judge.** When property taken in one county by burglary, robbery, or larceny has been brought into another, the jurisdiction of the offense is in either county. But if at any time before the conviction of the defendant in the latter, he is indicted or informed against in the former county, the sheriff of the latter county must, upon demand, deliver him to the sheriff of the former.

Jurisdiction of burglary, robbery, or larceny when property taken into another county.

Provided, however, that when the trial or prosecution is had in the county to which the property is brought after its taking as aforesaid, the county in which the property was so taken shall be liable for all or such proportion of the costs of the prosecution and trial as the judge of the court in which the prosecution or trial has been or may be had shall or may certify as proper costs against the county in which the property was taken, in the same manner and to the same extent as if the prosecution had been instituted in the county in which the property was so taken as aforesaid; and the proportion of said costs so found as payable by the county from which the property was so taken shall be paid by it in the same manner as if the action or prosecution had been commenced in the latter county and the venue of the action or prosecution changed to the county to which the property is brought, as provided in Section 4954 of the Revised Codes of Montana, 1935, so far as the same is pertinent hereto."

Judge to apportion costs between counties.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

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Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 17, 1937.

CHAPTER 22

An Act to Amend Section 9939 of the Revised Codes of Montana, 1935, Relating to the Venue in Eminent Domain Proceedings.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 9939 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Venue in eminent domain.

"Section 9939. All proceedings under this chapter must be brought in the district court of the county in which the property, or some part thereof, is situated. They must be commenced by filing a complaint and issuing a summons thereon."

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved February 17, 1937.

CHAPTER 23

An Act to Amend Section 5249 of the Revised Codes of the State of Montana, 1935, Relating to the Form of Bonds and Warrants and the Rate of Interest on Bonds and Warrants and Fixing the Rate at Not to Exceed Six Per Cent Per Annum.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 5249 of the Revised Codes of the State of Montana of 1935, be, and the same is hereby amended so as to read as follows:

Improvements, how paid for.

"Section 5249. **Form of Bonds and Warrants.** All costs and expenses incurred in the construction of any improvements specified in this act, in any improvement

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district, shall be paid for by special improvement district bonds or warrants. Such bonds or warrants shall be drawn in substantially the following form:

Form of bonds or warrants.

District No.....,
United States of America,
State of Montana.

Warrant or (Bond No.....) Dollars $.....

Interest at the rate of .....per cent per annum, payable annually.

Special Improvement District Coupon Warrant or Bond.

....., Montana,

Issued by the City of ....., Montana.

The treasurer of the City of....., Montana, will pay to....., or bearer, the sum of .....dollars as authorized by resolution No.....as passed on the .....day of....., 19....., creating special improvement district No..... for the construction of the improvements and the work performed as authorized by said resolution to be done in said district, and all laws, resolutions, and ordinances relating thereto, in payment of the contract in accordance therewith. The principal and interest of this warrant (or bond) are payable at the office of the city treasurer of....., Montana.

Place payable.

This warrant (or bond) bears interest at the rate of.....per cent per annum from the date of registration of this warrant (or bond), as expressed herein, until the date called for the redemption by the city treasurer. The interest on this warrant (or bond) is payable annually on the first day of.....in each year, unless paid previous thereto, and as expressed by the interest coupons hereto attached, which bear the engraved facsimile signature of the mayor and city clerk.

Interest rate.

This warrant (or bond) is payable from the collection of a special tax or assessment which is a lien against the real estate within said improvement district, as described in said resolution hereinbefore referred to.

Fund payable from.

This warrant (or bond) is redeemable at the option of the city at any time there are funds to the credit of said special improvement district fund for the redemption thereof, and in the manner provided for the redemption of the same.

Redeemable when.

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Certification.

It is hereby certified and recited, that all things required to be done, precedent to the issuance of this warrant (or bond), have been properly done, happened, and been performed, in the manner prescribed by the laws of the State of Montana and the resolutions and ordinances of the city of....., Montana, relating to the issuance thereof.

(Seal)

Dated at....., Montana, this..... day of....., 19.....

City of....., Montana.

By....., Mayor

....., City Clerk

Registered at the office of the city treasurer of ....., Montana, this.....day of ....., 19.....

.....

City Treasurer.

Rate of interest when registered.

And the same shall be drawn against the special improvement district fund created for the district, and shall bear interest at a rate not exceeding 6 per cent per annum, from the date of registration until called for redemption or paid in full, interest to be payable annually on the first day of January of each year, unless the council prescribes another date. Such warrants (or bonds) shall be signed by the mayor and clerk, and shall bear the corporate seal of the city. They shall be registered in the office of the clerk and treasurer, and if interest coupons be attached thereto, they shall also be so registered and shall bear the signature of the mayor and clerk; provided, however, that said coupons may bear the facsimile signature of said officers in the discretion of the city council. Said bonds shall be in denominations of One Hundred Dollars or fractions or multiples thereof, and may be issued in installments, and may extend over a period not to exceed twenty years. Such warrants (or bonds) shall be redeemed by the treasurer when there are funds in the special improvement district fund against which said warrants (or bonds) are issued available therefor; provided, that the treasurer shall first pay out of such special improvement district fund annually the interest on all outstanding warrants (or bonds), on presentation of the coupons belonging thereto, and any funds remaining shall be

Signed by mayor and clerk.

Denomination of bonds.

Redeemed when.

Interest to be paid, when.

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applied to the payment of the principal and the redemption of the warrants (or bonds) in the order of their registration; and provided, further that whenever there are any funds in any special improvement district fund, after paying the interest on such warrants (or bonds) drawn against said fund, the treasurer shall call in for payment outstanding warrants (or bonds), which, together with the interest thereon to the date of redemption, will equal the amount of said fund on that date, which date shall be fixed by the treasurer, who shall give notice by publication once in a newspaper published in the city, or at the option of the treasurer, by written notice to the holder or holders of such warrants (or bonds), if their address be known, of the number of warrants (or bonds) and the date on which payment will be made, which date shall not be less than ten days after the date of publication or of service of notice, and on which date, so fixed, interest shall cease. When it is provided by the resolution creating the district that the work be paid for in warrants (or bonds), the city council shall, by resolution, fix the denominations of such warrants (or bonds), which may be of one hundred dollars ($100.00), or fractions or multiples thereof, the rate of interest, which shall not exceed six per cent per annum, and provide for the payment or redemption of such warrants (or bonds) at a time certain, which time of payment must not exceed twenty (20) years from and after the date of issuance."

When Treasurer shall call bonds or warrants.

Notice of calling.

Denomination of warrants.

Interest rate.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 17, 1937.

CHAPTER 24

An Act to Amend Section 5309.35 of the Revised Codes of Montana of 1935, Permitting Certain Fiduciaries and Financial Institutions to Invest Their Funds in Home Owners' Loan Corporation Bonds and in Obligations of National Mortgage Associations, so as to Permit

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Such Fiduciaries and Institutions Also to Invest in Debentures Issued by the Federal Housing Administrator.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 5309.35 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Fiduciaries may invest in Home Owner's Loan Corporation Bonds.

"Section 5309.35. Notwithstanding any other provision of law, it shall be lawful for any executor, administrator, guardian, or conservator, trustee or other fiduciary to invest the funds or moneys in their custody or possession, eligible for investment, in bonds of the Home Owners' Loan Corporation or debentures issued by the federal housing administrator, guaranteed as to principal and interest by the United States Government.

Banks, insurance companies and building loan companies may invest in.

Notwithstanding other provisions of the law, it shall be lawful for any insurance company, building and loan association, bank, trust company, investment company and other financial institutions operating under the laws of this state to invest the funds or moneys in their custody or possession, eligible for investment, in bonds of the Home Owners' Loan Corporation, in debentures issued by the federal housing administrator and in obligations of National Mortgage Associations."

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved February 17, 1937.

CHAPTER 25

An Act to Amend Section 6018.1 of the Revised Codes of Montana of 1935, Relating to Loans and Investments Under the National Housing Act, and to Add a New Section to Said Act Making Mortgages Insured and Debentures Issued by the Federal Housing Administrator Eligible for Deposit Purposes.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 6018.1 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

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"Section 6018.1. Notwithstanding any other provisions of the law of this state restricting the amount of any loan in relation to the value of the real estate, and/or restricting the term of any such loan, and/or restricting the rate of interest on any such loan, it shall be lawful for any corporation, bank, trust company, insurance company, investment company, and any other financial institution, which has been approved as a mortgagee by the federal housing administrator, to obtain insurance, and to make such loans secured by real estate as the federal housing administrator insures or makes a commitment to insure."

Limitation on loans or real estate not applicable to loans on federal housing plan.

Section 2. That there may be added to the act to which this act is an amendment a new section to be entitled "Section 6018.2" to follow immediately after Section 1, and which shall read as follows:

Section added 6018.2.

"Section 6018.2. Wherever collateral must or may be furnished by any depository in the State of Montana as security for the deposit of any funds whatsoever, or wherever collateral must or may be deposited with any official of the State of Montana pursuant to any statute of this State, mortgages insured and debentures issued by the federal housing administrator shall be considered eligible collateral for such purposes."

Federal housing securities good collateral as security for deposit.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 17, 1937.

CHAPTER 26

An Act to Provide for the Labelling of New Motor Vehicles That Have Been Driven, Pushed, or Towed or Otherwise Propelled Before Sale, and Requiring That Dealers in Such Motor Vehicles Provide a Certificate showing the Actual Mileage Such Motor Vehicle Has Travelled on Its Own Wheels.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Any firm, person, corporation or association of persons, or any employee of such or any of such, offering for sale or carrying on the business of selling new motor vehicles in the State of Montana, shall be

New motor vehicles which have been towed or driven must be so labeled.

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required to prominently label any motor vehicle which has been driven under its own power, pushed or towed or propelled by any other means, to sufficiently identify it from other new vehicles that have not been so driven, pushed or towed; and shall be required to furnish the purchaser of any such motor vehicle with a certificate on a printed form to be furnished by the registrars of motor vehicles upon request by such dealers, showing the actual number of miles such motor vehicle has been driven under its own power and the number of miles such vehicle has been pushed, towed or otherwise propelled upon its own wheels; and any firm, person, corporation or association of persons, or employee of such or any of such who fails to so prominently label and issue such certificate, or who knowingly issues a certificate that is untrue and calculated to mislead the purchaser, shall be guilty of a misdemeanor.

Certificate to be furnished purchaser.

Contents of.

Penalty for violations.

Not applicable to cars used for demonstating.

Section 2. The provisions of this act shall not apply to motor vehicles during the period or time that such motor vehicles are used for bona fide demonstrating purposes.

Section 3. This act shall be in full effect from the day of its passage and approval.

Approved February 17, 1937.

CHAPTER 27

An Act Providing for the Levying of Taxes by the Several Counties for Old Age Assistance; Prescribing the Method of Payment of Such Old Age Assistance by the State Old Age Pension Commission; Providing for Adequate Accounts in Relation to Such Payments and Their Allowance and Making Inoperative Sections 335.25, 335.26 and 335.27 and Section 4756 of the Montana Revised Codes, 1935, and All Other Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

County old age assistance to be paid from poor fund —levy for.

Section 1. In each county old age assistance shall be paid from the county poor fund. It is hereby made the duty of the appropriate authority in each county to make a levy in an amount not prohibited by law, so

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as to make available to the order of the county old age pension commission such a sum as may be needed for old age assistance and include such sum in the taxes to be levied in each county.

Payment, how made.

Section 2. Payments of old age assistance shall be made by the state old age pension commission direct to the several county old age pension commissions of the several counties of the state. The payment of such old age assistance shall be issued in the full approved amount for each eligible, approved grantee, and, if possible, shall be available to such grantee not later than the tenth day of each month. All such old age assistance payments shall represent cash on demand or full par value to the recipient.

When payment of pension avaliable.

County old age pension commission to certify eligibles.

Section 3. The county old age pension commission shall not later than the twentieth day of the month preceding the month of payment certify to the state old age pension commission the case number, name, and amount to be paid to each of the grantees. The state old age pension commission is hereby empowered and ordered to transmit to the county old age pension commission of the several counties of the State of Montana not later than the third day of each month, during the life of this act, a sum of money equal to the amount necessary to pay each grantee the amount due him or her as shown by the list of grantees herein in this Section mentioned.

State commission to transmit fund to county monthly.

Payment of old age assistance where warrants were registered for lack of funds.

Section 4. It is hereby provided that any county old age pension commission which has paid old age assistance grants by warrants drawn on the county poor fund and which warrants were registered for want of funds shall be reimbursed by the state old age pension commission in an amount equal to the amount of the warrants registered, which were drawn exclusively for the payment of approved old age pension grantees and the state old age pension commission is hereby empowered and ordered to make such payment, but no payment shall be made by the state old age pension commission for any accrued interest on such warrants but shall make payment only in the amount as set forth in the warrants. Before such payment is made by the state old age pension commission the county old age pension commission shall forward to the state old age pension commission a statement giving

Conditions.

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the case number, name and amount paid to each grantee for which warrants were registered.

Registered warrants to be called and paid.

When said funds have been received by the county old age pension commission the commission shall, at once, issue a call for payment of all registered warrants drawn on the county poor fund which have been issued exclusively for payments to old age assistance grantees, when said warrants are called and paid by the county old age pension commission out of the funds remitted to them by the state old age pension commission for the redemption or payment of the said warrants the said paid warrants shall be by the county old age pension commission forwarded by registered mail to the state old age pension commission for the purpose of federal inspection after which inspection the said warrants shall be by the state old age pension commission returned to the county old age pension commission from which they were received.

Warrants to be forwarded to state old age pension commission.

Records and accounts required.

Section 5. **Records and Accounts.** The county old age pension commission shall keep such records and accounts in relation to old age assistance as the state old age pension commission shall prescribe and the state old age pension commission shall keep such records and accounts as shall be designated by the United States Government.

Emergency act.

Section 6. This act shall be deemed to be an emergency act for the purpose of making certain that current payments shall be made to the recipient of old age pensions in the State of Montana to the end that want and suffering may be alleviated among the grantees of the old age pension in Montana and this act shall be liberally construed to the end that the purposes set forth herein shall be performed.

Liberal construction.

Laws stayed during operation of this law.

Section 7. The provisions of Sections 335.25, 335.26 and 335.27 of Chapter 33 of the Political Code of Montana, 1935, and Section 4756, Chapter 362 of the Political Code of Montana, 1935, and all other acts or parts of acts in conflict with the provisions of this act shall be and are hereby declared to be inoperative as against any of the provisions of this act, during the time this act shall be in force and effect.

Inoperative after May 1, 1937.

Section 8. This act shall be in full force and effect upon its passage and approval until May 1st, 1937 after

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which date the provisions of this act shall become inoperative.

Approved February 17, 1937.

CHAPTER 28

An Act to Amend Section 2295.7 of the Revised Codes of Montana, 1935, Relating to Income Tax and Defining Gross Income and What Is Included Therein.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 2295.7 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

"Section 2295.7. **Gross Income, What Included In.** The term "gross income";

"Gross income" defined.

(1) Includes gains, profits and income derived from salaries, wages or compensation for personal service, of whatever kind and in whatever form paid, or from professions, vocations, trades, business, or commerce; also from interest, rent, dividends, securities, or the transaction of any business carried on for gain or profit. The amount of all such items shall be included in the gross income for the taxable year in which received by the taxpayer; unless under the methods of accounting permitted in this act, any such amounts are to be properly accounted for as of a different period;

Items not included in gross income.

(2) But does not include the following items which are exempt from taxation under this act:

Proceeds of life insurance.

(a) The proceeds of life insurance policies and contracts paid upon the death of the insured to individual beneficiaries or to the estate of the insured.

Return of premiums on insurance.

(b) The amount received by the insured as a return of premium or premiums paid by him under life insurance, endowment or annuity contracts, either during the term or at the maturity of the term mentioned in the contract or upon surrender of the contract.

Value of gifts or bequests.

(c) The value of property acquired by gift, bequest, devise or descent (but the income from such property shall be included in gross income).

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Benefits from accident or health insurance.

(d) Any amount received through accident or health insurance or under workmen's compensation acts, as compensation for personal injuries or sickness, plus the amount of any damages received whether by suit or agreement on account of such injuries or sickness, or

War benefits.

through the war risk insurance act or any law for the benefit or relief of injured or disabled members of the military or naval forces of the United States, and their dependents.

Compensation from federal government.

(e) Salaries, wages and other compensations received from the United States or officials or employees thereof, including persons in the military or naval forces of the United States.

Stock dividends, when exempt.

(f) Stock dividends when received by a shareholder shall not be subject to tax, but if before or after the distribution of any such dividend, the corporation proceeds to cancel or redeem its stock at such time and in such manner as to make the distribution and cancellation or redemption in whole or in part essentially equivalent to the distribution of a taxable dividend, the amount so distributed in redemption or cancellation of the stock shall be treated as a taxable dividend and included in gross income; provided, however, that any stock dividend shall be considered in computing gain, profit or income upon the sale, exchange or other disposition of the stock upon which a stock dividend has been declared or of the stock included in such stock dividend.

Proviso.

Taxpayers other than residents, gross income of.

(3) In the case of taxpayers other than residents, gross income includes only the gross income from sources within this state, but shall not include annuities, interest on bank deposits, interest on bonds, notes or other interest-bearing obligations, or dividends on stock of corporations; except to the extent that such annuities, bank deposits, bonds, notes or other obligations or stocks shall be a part of income from any business, trade, profession or occupation carried on in this state."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 17, 1937.

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CHAPTER 29

An Act Amending Section 2296 of the Revised Codes of Montana, 1935, Relating to Corporation License Tax and Defining What Organizations Are Exempt Therefrom.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 2296 of the Revised Codes of Montana, 1935, be, and the same is hereby, amended to read as follows:

Corporation defined.

"Section 2296. **Corporation License Tax—Organizations Exempt From.** The term corporation includes associations, joint stock companies, common law trusts and business trusts which do business in an organized capacity whether created under and pursuant to state laws, agreements, declarations of trust. Every corporation, except as hereinafter provided, organized and existing under the laws of the State of Montana and engaged in business therein, shall annually pay to the state treasurer, as a license fee for carrying on business in said State of Montana, two (2) per centum upon the total net income received by such corporation in the preceding fiscal year from all sources within the State of Montana, including interest on bonds, notes or other interest bearing obligations of residents, corporate or otherwise, and including the income derived from dividends on capital stock or from net earnings of resident corporations whose net income is taxable under this title; and every corporation, except as hereinafter provided, organized and existing under the laws of any other state or country, or the United States, and engaged in business in the State of Montana, shall annually pay for the exclusive use and benefit of the State of Montana a license fee for carrying on its business in the State of Montana of two (2) per centum upon the total net income received by such corporation in the preceding fiscal year from all sources within the State of Montana, including the interest on bonds, notes or other interest bearing obligations of residents, corporate or otherwise, and including the income derived from dividends on capital stock, or from net earnings of resident corporations, joint stock companies or associations whose net income is taxable under this title. Every corporation subject to taxation

License tax of 2% of net income on resident corporations.

License tax on foreign corporations.

2% of net income earned in state.

Minimum tax.

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under this act shall, in any event, pay a minimum tax of not less than five dollars ($5.00).

Corporations exempt.

There shall not be taxed under this title any income received by any—

Labor and agricultural organizations.

First. Labor, agricultural or horticultural organization;

Mutual savings banks.

Second. Mutual savings bank not having a capital stock represented by shares;

Fraternal orders, when.

Third. Fraternal beneficiary, society, order or association operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and providing for the payment of life, sick, accident or other benefits to the members of such society, order or association or their dependents;

Domestic building and loan associations.

Fourth. Domestic building and loan associations or cooperative bank without capital stock, organized and operated for mutual purposes and without profit;

Cemetery companies.

Fifth. Cemetery company owned and operated exclusively for the benefit of its members;

Religious and charitable organizations.

Sixth. Corporation or association organized and operated exclusively for religious, charitable, scientific or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual;

Business leagues and chambers of commerce.

Seventh. Business league, chamber of commerce, or board of trade, not organized for profit, and no part of the net income of which inures to the benefit of any private stockholder or individual;

Civic leagues.

Eighth. Civic league or organization not organized for profit, but operated exclusively for the promotion of social welfare;

Pleasure or recreational clubs.

Ninth. Club organized and operated exclusively for pleasure, recreation and other nonprofitable purposes, no part of the net income of which inures to the benefit of any private stockholder or members;

Mutual societies, when.

Tenth. Farmers' or other mutual hail, cyclone, or fire insurance company, mutual ditch or irrigation company, mutual or cooperative telephone company, or like organization of a purely local character, the income of

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which consists solely of assessments, dues and fees collected from members for the sole purpose of meeting its expenses;

Cooperative.

Eleventh. Labor, agricultural or horticultural cooperative organized and operated on a cooperative basis;

Marketing co-ops.

(a) For the purpose of marketing products of members or other producers and turning back to them the proceeds of sale less the necessary marketing expenses on the basis of either the quantity or the value of the products furnished by them, or

Purchasing co-ops.

(b) For the purpose of purchasing supplies and equipment for the use of members or other persons and turning over such supplies and equipment to them at actual cost plus necessary expenses. Exemption shall not be denied any such association because it has capital stock if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the state of incorporation, or eight (8) per centum per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the association, upon dissolution or otherwise, beyond the fixed dividend) is owned by producers who market their products or purchase their supplies and equipment through the association nor shall exemption be denied any such association because there is accumulated and maintained by it a reserve required by state law or a reasonable reserve for any necessary purpose. Such an association may market the products of nonmembers in any amount the value of which does not exceed the value of the product marketed for members and may purchase supplies and equipment for nonmembers in an amount the value of which does not exceed the value of the supplies and equipment purchased for members, provided the value of the purchases made for persons who are neither members or producers does not exceed fifteen (15) per centum of the value of all its purchases. Business done with the United States, the State of Montana, or its political subdivisions shall be disregarded in determining the right to exemption under this act.

Exemption not denied because of capital stock.

Exemption not denied because a reserve is maintained.

Association may act for non-members, when.

Companies holding title for exempt bodies.

Twelfth. Corporations or associations organized for the exclusive purpose of holding title to property, col-

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lecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this title;

Public utilities operated by a subdivision of state.

Thirteenth. In determining the license fee to be paid under this act, there shall not be included any earnings derived from any public utility managed or operated by any subdivision of the state, or from the exercise of any governmental function."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 17, 1937.

CHAPTER 30

An Act to Amend Sections 2815.63, 2815.65, 2815.66, 2815.69, 2815.75 and 2815.11 of the Revised Codes of Montana of 1935, Relating to the Sale, Control and Regulation of Alcoholic Liquor and Beer in the State of Montana and the Administration of the Montana Beer Act and the State Liquor Control Act of Montana, and the Membership of the Montana Liquor Control Board and Transferring the Administration of the Montana Beer Act From the State Board of Equalization to the Montana Liquor Control Board; Creating the Office of State Liquor Administrator and Assistant State Liquor Administrator and Prescribing the Powers and Duties of Such Officers; Defining 'Nuisance', and Providing for the Abatement of Same, and Repealing Section 2815.52 of the Revised Codes of Montana of 1935.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 2815.63 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Creation of Montana liquor control board.

"Section 2815.63. The 'Montana liquor control board' shall consist of three members not more than two of whom shall be of the same political party to be appointed by the governor, with the advice and consent of the

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senate, and each of said members shall have been a resident of the State of Montana for a period of five years and a citizen of the United States and of the State of Montana. Each member of the Montana liquor control board shall hold office for a term of four years and until his successor is appointed and qualified, provided, however, that in the appointment of the members of the first board to be appointed, under the terms of this act, one of such members shall be appointed to hold office for a term of two years, and two of such members shall be appointed to hold office for a term of four years; and provided, further, that the members of said board may be removed from office at any time by the governor, for cause. The governor shall designate the term of service of each member first appointed, so that the term of one shall end March 1, 1939, and the term of two shall expire March 1, 1941. Each succeeding member shall hold his office for a term of four years and until his successor shall be appointed and shall have qualified. Succeeding appointments, except when made to fill a vacancy, shall be made on or before the 31st day of January during the biennial session of the legislature, next preceding the commencement of the term for which the appointment is made; provided, that the governor shall nominate and transmit to the state senate the names of the first members of the said board, on or before the 3rd day of March, 1937. Each of the members of the Montana liquor control board shall receive, as compensation for his official services, the sum of ten dollars ($10.00) per diem, for each day actually engaged in the duties of his office, including his time of travel between his home and place of employment of such duties, together with the traveling expenses while away from home in the performance of the duties of his office, the maximum amount each member of the commission shall receive for per diem shall not exceed five hundred dollars ($500.00) per annum. The board shall hold its meetings at the City of Helena or at such other places as may be designated by the board. The board shall choose one of its own members as chairman, and shall appoint a state liquor administrator, who shall not be a member of the board and who shall be ex-officio the secretary of the board. The board may also, in its discretion, appoint an assistant state liquor administrator and other employees. Each member of the board shall take and file the constitutional oath of office before

Qualifications.

Term of office.

Removal by Governor for cause.

Term of first appointees.

Time for appointing members of board.

Compensation of board members.

Traveling expenses allowed.

Maximum compensation.

Meetings of.

Chairman of board, how selected.

State liquor administrator to be appointed.

Oath of office of board members.

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Bond of.

entering the performance of his duties, and he shall give bond conditioned for the faithful performance of his duties, in the sum of twenty-five thousand dollars ($25,000.00). A majority of the members of the board shall constitute a quorum for the transaction of business.

Powers and duties of board.

The board shall have the powers and duties herein specified and the administration of the state liquor control act of Montana and the Montana beer act, including the general control, management and supervision of all state liquor stores, but the board is authorized to delegate to the state liquor administrator the general control, management and supervision of all state liquor stores, including the power to purchase supplies for same and the power to hire and discharge employees of the board, subject, however, to such regulations and restrictions as the board may impose upon the state liquor administrator.

Board may delegate powers to state liquor Administrator.

Board to fix salaries.

Limitations on.

The board shall fix the salary of the state liquor administrator in such sum as it deems advisable, not exceeding five thousand dollars ($5000.00) per year, and it shall fix the salary of the assistant state liquor administrator at such sum as it deems advisable, not exceeding four thousand dollars ($4000.00) per year. The board shall fix the salaries of all other employees of the board, but in no case shall the salaries of such other employees exceed the sum of three thousand dollars ($3000.00) per year.

Powers and duties of assistant liquor administrator.

The assistant state liquor administrator shall exercise such powers and perform such duties in the administration of the state liquor control act and Montana beer act as the board may prescribe."

Amending clause.

Section 2. That Section 2815.65 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Oath and bond of state liquor administrator.

"Section 2815.65. The state liquor administrator, before entering upon the performance of his duties, shall take and file the constitutional oath of office and he shall give bond in such sum as the board may determine,

To devote entire time to duties.

and he shall devote his whole time and attention to the administration of the state liquor control act of Montana and the Montana beer act and shall receive no other compensation from any source whatsoever, or follow no other occupation."

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Amending clause.

Section 3. That Section 2815.66 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Term of office of administrators.

"Section 2815.66. The state liquor administrator and the assistant state liquor administrator, if one is appointed by the board, shall hold office during the pleasure of the board."

Amending clause.

Section 4. That Section 2815.69 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Board to establish and maintain stores.

Prices of liquor to be fixed by board.

When liquor stores shall be open.

"Section 2815.69. The board shall establish and maintain at county seats and such other places as the board deems advisable, one or more stores to be known as "state liquor stores", for the sale of liquor in accordance with the provisions of this act and the regulations made thereunder, and the board may, from time to time, fix the prices at which the various classes, varieties and brands of liquor may be sold, and prices shall be the same at all state stores. Such state liquor stores shall be and remain open during such period of the day as the board shall deem advisable, provided, however, that such stores shall be closed for the transaction of business on Sundays, legal holidays, and election days."

Amending clause.

Section 5. That Section 2815.75 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Days when liquor stores shall be closed.

"Section 2815.75. No sale or delivery of liquor shall be made on or from the premises of any state liquor store, nor shall any store be open for the sale of liquor

(a) on any holiday;

(b) on any day on which polling takes place at any national or state election held in the electoral district in which the store is situated;

(c) on any day on which polling takes place at any municipal election held in the municipality in which the store is situated;

(d) during such other period and on such other days as the board may direct."

Amending clause.

Section 6. That Section 2815.11 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

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Definitions.

"Section 2815.11. **Definitions.** In this act, the expression

"Board."

(a) "Board" as used in this act means the Montana liquor control board, which shall administer the Montana beer act, under its provisions ex-officio and without additional compensation.

"Beer."

(b) "Beer" means any beverage obtained by alcoholic fermentation of an infusion or decoction of barley, malt and hops, or of any other similar products in drinkable water.

"Brewer."

(c) "Brewer" means any person having a factory or an establishment adapted for the making of beer.

"Club."

(d) "Club" means any association of individuals for purposes of mutual entertainment and convenience and shall include the premises applied or used for any such purpose.

"Club member."

(e) "Club member" means a person who, whether as a charter member or admitted according to the by-laws or rules of the club, has become a member thereof who maintains his membership by the payment of his regular periodic dues in the manner provided by such rules or by-laws and whose name and address are entered in the list of membership supplied to the board at the time of the application for a club license under this act, or if admitted thereafter within ten (10) days after his admission.

"Person."

(f) "Person" includes every partnership, corporation, or association.

"Retailer."

(g) "Retailer" means any person engaged in the sale and distribution of beer, either on draught or in bottles, to the public to be served and consumed on the premises of such retailer, or in the sale or distribution of beer to the public with intent that such beer shall be taken away from the premises of such retailer for consumption off such premises.

"Vehicle."

(h) "Vehicle" means any means of transportation by land or by water or by air and includes everything made use of in any way whatever for such transportation.

"Wholesaler."

(i) "Wholesaler" means any person having a store or establishment for the sale and distribution of beer in wholesaling or jobbing quantities, or for the sale and

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distribution of beer in original packages to the public with intent that such packages shall be delivered or taken away from the premises of such wholesaler in unbroken package for consumption off the premises of such wholesaler."

Beer Act to be administered by board.

Section 7. The power and authority to administer the Montana beer act, heretofore vested in the state board of equalization, is hereby transferred from the state board of equalization to the Montana liquor control board, and all power and authority in regard to the administration of the Montana beer act is hereby vested in the Montana liquor control board.

Buildings where liquor is sold, etc., in violation of Act declared common nuisance.

Section 8. Any room, house, building, boat, vehicle, structure or place where intoxicating liquor is knowingly manufactured, sold, or bartered, in violation of the state liquor control act of Montana and all property knowingly kept and used in maintaining the same is hereby declared to be a common "nuisance", and any person who maintains such a common nuisance shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred dollars ($100.00), nor more than five hundred dollars ($500.00) and by imprisonment not less than thirty days, nor more than six months.

Penalty.

Actions to enjoin nuisance.

Section 9. An action to enjoin any nuisance defined in this act, may be brought in the name of the State of Montana by the attorney general of the state or any county attorney. Such action shall be brought and tried as an action in equity, and may be brought in any court having jurisdiction to hear and determine equity cases. If it is made to appear by affidavits, or otherwise, to the satisfaction of the court or judge in vacation, that such nuisance exists, a temporary writ of injunction shall forthwith issue, restraining the defendant from conducting or permitting the continuance of such nuisance until the conclusion of the trial. If a temporary injunction is prayed for, the court may require from the applicant for such restraining order a bond in such sum as deemed advisable, if such application be made by a person other than a duly qualified and acting officer of the state or any political sub-division thereof and upon approval of such bond by the judge of said court issue an order restraining the defendant and all other persons from removing the fixtures or other things

Jurisdiction of courts.

Temporary writ.

When bond required in action.

Effect of order.

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used in connection with the violation of this act, constituting such nuisance. Such action shall be prosecuted and tried in the same manner and the court shall grant the same relief as in suits to abate nuisances for violation of the Montana beer act.

Relief allowed.

Repealing clause.

Section 10. That Section 2815.52, be, and the same is hereby repealed.

General repealing clause.

Section 11. All acts and parts of acts inconsistent herewith are hereby repealed.

Section 12. This act shall be in full force and effect from and after its passage and approval.

Approved February 18, 1937.

CHAPTER 31

An Act to Amend Section 6651, Revised Codes of Montana, 1935, Relating to the Requirements of Foreign Corporations to Do Business Within This State.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 6651 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Foreign corporations.

Requirements to do business in state.

Certified copy of charter to be filed with secretary of state.

"Section 6651. **Foreign Corporations — Requirements to Do Business in State.** All foreign corporations or joint stock companies, except foreign insurance companies and corporations otherwise provided for, organized under the laws of any state, or of the United States, or of any foreign government, shall before doing business within this state, file in the office of the secretary of state of Montana, a duly certified copy of their charter, or articles of incorporation, and also a statement, verified by oath of the president and secretary of such corporation, and attested by a majority of its board of directors, showing:

Contents of verified statement required.

1. The name of such corporation and the location of its principal office or place of business without this state, and the location of the place of business or principal office within this state;

2. The names and residences of the officers, trustees, or directors;

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3. The amount of capital stock;

4. The amount of capital invested in the State of Montana.

Copy of charter or articles of incorporation to be filed in office of county clerk.

A copy of such charter or articles of incorporation, and such statement, duly certified by said secretary of state, shall be filed in the office of the county clerk of the county wherein its principal office or place of business in this state will be located. Such corporation or joint stock company shall also file, at the same time, and in the same office, a certificate, under the seal of the corporation, and the signature of its president, vice-president, or other acting head, and its secretary, if there be one, certifying that the said corporation has consented to all the license laws and other laws of the State of Montana relative to foreign corporations and has consented to be sued in the courts of this state, upon all causes of action arising against it in this state, and that service process may be made upon some person, a citizen of this state, whose name and place of residence shall be designated in such certificate, and such service, when so made upon such agent, shall be valid service on the corporation or company.

Certificate of consent to license laws and consent to be sued to be filed.

Agent for service of process to be designated.

Procedure where articles or charter is amended.

In case of alteration or amendment of the charter or articles of incorporation of any foreign corporation doing business in this state, or of increasing its capital stock, or of continuing its corporate existence, it must, within thirty (30) days after the same is adopted by the corporation, file a duly certified copy of such amendment or alteration or certificate of increase of capital stock, or of continuance of corporate existence in the office of the secretary of state, and a copy thereof certified by said secretary of state in the office of the county clerk of the county where its principal office or place of business within this state is located; and whenever any such corporation increases its capital stock or continues its corporate existence, it shall pay to the secretary of state at the time of filing in his office the duly certified copy of the certificate thereof, the same fee that is required by law for filing certificates of increase of capital stock or certificates of continuance of corporate existence. Any such corporation failing, neglecting, or refusing to file such duly certified copies of all alterations, or amendments, of its charter or articles of incorporation, and of all certificates of increase of capital stock or continuance of corporate existence, or refusing

Fee required.

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to comply with any and all the laws of Montana relating to the payment of fees or licenses, shall forfeit its right to do business in this state and shall be subject to all the penalties, liabilities, and restrictions imposed by law upon foreign corporations for doing business in this state without filing duly certified copies of their charters, or articles of incorporation, in the manner required by law; provided, however, that any foreign corporation now doing business in this state and which has filed a duly certified copy or a duly authenticated copy of its charter or articles of incorporation and also the verified statement and the certificate required by this section and has paid to the secretary of state all fees that are required by law, and any corporation which has altered or amended its charter or articles of incorporation or increased its capital stock, or continued its corporate existence since first filing a duly authenticated or a duly certified copy of its charter or articles of incorporation with the secretary of state, and which has heretofore filed a duly authenticated or a duly certified copy of such alterations, amendments, or certificates of increase or continuance, in the office of the secretary of state and in the office of the county clerk of the county where it has its principal office or place of business in this state and has paid to the secretary of state all fees that are required by law, shall be deemed to have fully complied with the requirements of this act and any defects in such filing shall be deemed to be corrected hereby, and such corporation is duly and validly qualified as a foreign corporation and is authorized to engage in business in the State of Montana, and such corporation is exempt from any penalties to which it may have been subject under the provisions of this act prior to this amendment.

Penalty for violations of act or other laws of state.

Foreign corporations now doing business in state deemed qualified under this act when.

Not subject to penalties.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved Ferbuary 18, 1937.

CHAPTER 32

An Act Authorizing the Amendment of Articles of Incorporation of Any Corporation Organized Under Any of

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the Laws of the State of Montana, Designating the Particulars in Which Such Articles of Incorporation May Be Amended; Providing the Procedure Therefor and for the Filing of Certificates of Such Proceedings With the Proper Officers.

Be it enacted by the Legislative Assembly of the State of Montana:

Montana corporations may amend articles of incorporation.

Amendments allowed.

Section 1. Any corporation, heretofore or hereafter organized under any of the laws of the State of Montana, whether formed and existing before or after the taking effect of the codes on July 1, 1895, may, in the manner herein provided, amend its original or amended articles of incorporation by changing the name, principal office or principal place of business or number of directors, by changing the number, par value, character, class or preference of its shares of capital stock, by increasing or decreasing the capital stock, by changing or extending its powers or business to embrace any power or purpose for which corporations may be organized under the laws of Montana, by extending its term of existence within the limits provided by law, or by an amendment in respect to any other matter which might lawfully have been originally provided in such articles of incorporation, or is now or may be, by law, provided in original articles of incorporation or in amendments thereto.

Procedure for making amendments.

Section 2. Such amendment may be made by the adoption of a resolution by a two-thirds vote of the capital stock of such corporation, represented in person or by proxy at any regular annual meeting of such corporation and entitled to vote thereat, held at the time and place prescribed by its by-laws for the election of directors without special notice thereof, at which meeting a quorum as defined by Section 5946, Revised Codes of Montana of 1935, or prescribed by the by-laws of such corporation, as in said section provided, is present; or at any special meeting of the stockholders of such corporation called, noticed and held for that specific purpose in the manner prescribed by its by-laws, at which meeting a quorum, as defined by said Section 5946, Revised Codes of Montana of 1935, is present; provided, however, that the stock of any corporation shall not be increased hereunder without the consent of the persons holding a majority of the stock first obtained at a meeting held after at least thirty (30) days notice

For increase of stock consent of majority of stockholders required.

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given in pursuance of Sections 5920 and 5921, Revised Codes of Montana of 1935.

Certificate of proceedings to be filed with county clerk.

Section 3. A certificate of the proceedings had at such meeting, showing compliance with the provisions of this act, containing a copy of the resolution, or resolutions, adopted, and showing the vote thereon, shall be made out, signed and verified by the affidavit of the chairman of such meeting and countersigned by the secretary of the meeting, and shall be filed in the office of the county clerk of the county wherein the original articles of incorporation were filed, and a copy thereof, certified by such county clerk, shall be filed in the office of the secretary of state. A similar certified copy of such certificate shall likewise be filed in the office of the county clerk of any county to which said corporation may have changed its principal office or principal place of business. Upon the filing of the certified copy of such certificate in the office of the secretary of state, as hereinabove provided, the said amendment, or amendments, shall immediately become effective.

Contents of certificate.

Amendment, when effective.

Filing fees required.

Section 4. Such corporation shall pay to the secretary of state and to the respective county clerks of the counties in which certificates are filed the fees required by the laws of the State of Montana.

Purpose of act.

Section 5. The method of amending the articles of incorporation herein provided shall be in addition to any other method or methods provided by law.

Section 6. This act shall be in full force and effect from and after its passage and approval.

Approved February 18, 1937.

CHAPTER 33

An Act to Repeal Section 520 of the Revised Codes of Montana of 1935, and to Add a New Section in Lieu Thereof to Be Known as Section 520 Relating to the Printing and Publication of Reports of State Officers, Boards, Bureaus, Commissions and Departments.

Be it enacted by the Legislative Assembly of the State of Montana:

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Repealing clause.

Section 1. That Section 520 of the Revised Codes of Montana of 1935 is hereby repealed and a new Section added in lieu thereof to be known as Section 520 to read as follows:

Permission to print annual or biennial reports to be granted by board of examiners.

Section 520. The head of any state office, board, bureau, commission or department, who under the statutes of the state is required to make an annual or biennial report of his office, board, bureau, commission or department, may make application to the state board of examiners for permission to have such report printed and published, and the said board shall have full power to grant or deny such application.

Printing discretionary with board.

No report of any state office, board, bureau, commission or department subsequent to the reports for the two year period terminating June 30, 1936, shall be printed and published until the same has been submitted to the state board of examiners and the printing authorized. The said board shall authorize the printing and publication of such reports only when it deems the usefulness of the reports in the administration of the government of the state to justify the expense.

Board may demand printing of report.

The state board of examiners may in its discretion demand that the annual or biennial report of the head of any office, board, bureau, commission or department shall be printed and published without receiving any request from the officer concerned.

Repealing clause.

Section 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 19, 1937.

CHAPTER 34

An Act to Amend Sections 9664, 9680, 9632 and 9637 of the Revised Codes of Montana, 1935, Relating to Judgment When Defendant Fails to Appear in Justice Court; Judgment of Dismissal Entered in Certain Cases Without Prejudice; Time for Appearance; Alias Summons and Fixing Day for Trial and Repealing All Acts and Parts of Acts in Conflict Herewith.

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Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 9664, Revised Codes of Montana, 1935, be, and the same is hereby amended, so as to read as follows:

Judgment by default in justice court.

Evidence on.

Time for entering judgment.

Section 9664. **Judgment When Defendant Fails to Appear.** If the defendant fails to appear and answer or demur within the time specified in the summons, or one hour thereafter, then, upon proof of service of summons, the court must hear the evidence offered by the plaintiff, and must render judgment in his favor for such sum (not exceeding the amount stated in the summons) as appears by such evidence to be just. The proof and evidence to be given may be made and the judgment entered at any time within five days from the time default has been entered.

Amending clause.

Section 2. That Section 9680, Revised Codes of Montana, 1935, be, and the same is hereby amended so as to read as follows:

Action may be dismissed without prejudice, when.

Section 9680. **Judgment of Dismissal Entered in Certain Cases Without Prejudice.** Judgment that the action be dismissed without prejudice to a new action, may be entered with costs in the following cases:

Plaintiff dismisses.

1. When the plaintiff voluntarily dismisses the action, at or before the close of his evidence, when there is no counterclaim.

Failure of plaintiff to appear.

2. When he fails to appear at any time within five days after default has been entered, or at the time to which the action has been postponed.

Failure to amend after demurrer is sustained.

3. When, after a demurrer to the complaint has been sustained, the plaintiff fails to amend it within the time allowed by the court.

Wrong venue.

4. When it is objected at the trial, and appears by the evidence, that the action is brought in the wrong county, or township, town, or city; but if the objection is taken and overruled, it is the cause of a reversal on appeal, and does not otherwise invalidate the judgment; if not taken at the trial, it is waived.

Amending clause.

Section 3. That Section 9632 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

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Time for appearance of defendant.

Section 9632. **Time for Appearance of Defendant.** The time specified in the summons for the appearance of the defendant must be as follows:

1. If an order of arrest be indorsed upon the summons, forthwith.

Six days after service of summons.

2. In all other cases the summons shall provide that the defendant shall file his answer or serve a copy thereof upon the plaintiff or his attorney within six days after service of this summons, exclusive of the day of service; and in case of his failure to appear or answer, judgment will be taken against him by default for the relief demanded in the complaint.

Amending clause.

Section 4. That Section 9633 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Alias summons issued, when.

Section 9633. **Alias Summons.** If the summons is returned without being served upon any or all of the defendants, the justice, upon the demand of the plaintiff, may issue an alias summons in the same form as the original.

Amending clause.

Section 5. That Section 9637 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Day for trial to be fixed, when.

Section 9637. **Fixing Day for Trial.** When all parties served with process shall have appeared, or some of them have appeared, and the remaining defendants have made default, the justice must fix a day for the trial of said cause, and notify the plaintiffs and the defendants who have appeared thereof.

Repealing clause.

Section 6. All acts and parts of acts in conflict herewith are hereby repealed.

Section 7. This act shall be in full force and effect from and after its passage and approval.

Approved February 19, 1937.

CHAPTER 35

An Act to Amend Section 5039.61 of the Revised Codes of Montana of 1935 Relating to the Powers of City

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or Town Councils to Transfer or Lease Municipal Property.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 5039.61 of the Revised Codes of Montana of 1935, be, and the same hereby is amended to read as follows:

Power of city council to sell, lease or dispose of property.

"Section 5039.61. The city or town council has power; to sell, dispose of, or lease any property belonging to a city or town, provided, however, that such lease or transfer be made by ordinance or resolution passed by a two-thirds vote of all the members of the council; and provided further that if such property be held in trust for a specific purpose such sale or lease thereof be approved by a majority vote of taxpayers of such municipality cast at an election called for that purpose; and provided further that nothing herein contained shall be construed to abrogate the power of the board of park commissioners to lease all lands owned by the city heretofore acquired for parks within the limitations prescribed by sub-division 5 of Section 5162, Revised Codes of Montana of 1935."

Right of park commissioners to lease land not affected.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 19, 1937.

CHAPTER 36

An Act Declaring Certain Lands Forming Part of the Abandoned River Bed of Any Navigable Streams or Lakes in This State and Certain Islands in Such Streams or Lakes Property of the State of Montana to Be Held in Trust for the Benefit of the Public Schools of the State; Providing for the Leasing and Sale of Such Lands and the Disposition of Proceeds Therefrom; Providing for the Survey of Such Lands; Approving and Confirming Any Action Heretofore Taken Concerning the Lease and Sale of Such Lands and Disposing of the Proceeds Thereof and Repealing All Acts and Parts of Acts in Conflict Herewith.

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Be it enacted by the Legislative Assembly of the State of Montana:

Abandoned beds of navigable streams and certain islands declared property of state.

Section 1. **Abandoned Beds of Navigable Streams and Lakes and Certain Islands in Such Streams and Lakes Declared Property of the State of Montana.** All lands lying and being in and forming a part of the abandoned bed of any navigable stream or lake in this state and lying between the meandered lines of such stream or lake as the same are shown by the United States survey thereof and all islands existing in the navigable streams or lakes in this state which have not been surveyed by the government of the United States and all lands which at any time in the past comprised such an island or any part thereof except such lands as are occupied by and belong to the adjacent landowners as accretions belong to the State of Montana to be held in trust for the benefit of the public schools of the state.

Land board may sell or lease.

Section 2. **Administration of Lands by the State of Montana.** The state board of land commissioners of the State of Montana shall have the authority and it shall be the duty of said board to lease or sell said lands in the same manner as other school lands of the state are leased and sold. The state board of land commissioners may sell or lease said lands without having the same surveyed but if the said board shall deem it to be to the best interests of the state the said board shall have said lands surveyed as hereinafter directed. The proceeds from the leasing and sale of such lands shall be disposed of in the same manner as disposition is now made of the proceeds from the leasing and sale of school lands of the State of Montana.

May have lands surveyed before sale.

Proceeds, how disposed of.

Land board may have lands surveyed by county surveyor.

Section 3. **Survey of Lands.** Whenever the state board of land commissioners shall deem it necessary that any of the lands mentioned in Section 1 hereof be surveyed the said board shall cause the same to be surveyed by the county surveyor of the county in which said lands shall be situated; provided, however, that if there is no county surveyor of the county wherein the lands are situated, or if the county surveyor is unable to make such survey or if the best interests of the state so require, the state board of land commissioners shall appoint a qualified surveyor to make such surveys, and it shall be the duty of such county surveyor, or other surveyor appointed by the state board of land commissioners, to make such surveys when directed so to do by the said

When board may appoint surveyor.

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Duties of surveyors.

state board of land commissioners and he must make an actual survey thereof establishing four (4) corners of every quarter section and connecting the same with a United States survey and within thirty (30) days after such survey file in the office of the county clerk and recorder of said county a copy under oath of his field notes and plat and shall file a duly certified copy of said field notes and plat with the commissioner of state lands and investments. For the services required in connection with the survey the county surveyor or other surveyor appointed by the state board of land commissioners shall be entitled to fees as prescribed in Section 4921, Revised Codes of Montana, 1935. Such fees shall be paid in the same manner as other expenses of the department of state lands and investments of the State of Montana.

Plat and field notes to be filed.

Fees of surveyor.

Lands already sold or leased approved.

Section 4. **Prior Action Approved.** Any action heretofore taken by the department of state lands and investments and any officer or employee thereof in leasing or selling such lands as mentioned in Section 1 hereof and disposing of the proceeds thereof in the same manner as disposition is now made of the proceeds from the leasing and sale of school lands is hereby approved and confirmed.

Repealing clause.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Section 6. This act shall be in full force and effect from and after the date of its passage and approval.

Approved February 19, 1937.

CHAPTER 37

An Act Relating to Photography; Defining and Regulating the Practice Thereof, and Providing a License Therefor, and Creating a Board of Examiners in Photography.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Photography Defined.**

(a) Photography is defined to be:

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1. The production of pictures by the action of light on prepared sensitive surfaces; "Photography" defined.

2. The processes of projecting and registering images by means of lens and camera upon sensitized materials, development and fixation of the latent image to render same visible and permanent, and the subsequent reproduction or transfer of such image, either negative or positive, upon other sensitized material by aid of light and chemical action.

(b) The practice of photography is defined to be the business or profession, occupation or avocation of taking or producing photographs, or any part thereof, for hire. Practice of photography defined.

Section 2. **Creation of Board.** The board of examiners in photography is hereby created. Said board shall consist of five (5) members, to be appointed by the governor. Each of said members shall have been engaged in the practice of photography in the state for not less than five (5) years next preceding his appointment. The terms of the members first appointed shall be, one (1) for five (5) years; one (1) for four (4) years; one (1) for three (3) years; one (1) for two (2) years; and one (1) for one (1) year. Thereafter the term of each member shall be for five (5) years. Board of examiners in photography. Term and qualifications.

Section 3. **Organization; Duties of Officers; Meetings; Compensation.**

(a) Within thirty (30) days after the appointment of the members thereof, the board shall organize by electing one (1) of its members as president, one (1) as vice-president, and one (1) as secretary and treasurer. The board shall make such rules and regulations as may be necessary to the performance of its duties. A majority of the board shall constitute a quorum. Organization. Officers. Rules and regulations. Quorum.

(b) It shall be the duty of the president to preside at all meetings. In the absence or incapacity of the president, the vice-president shall assume his duties. It shall be the duty of the secretary-treasurer to keep a record of all proceedings of the board, which shall be open at all times to public inspection. He shall have custody of all funds and shall hold, use or expend such funds only in the manner hereinafter provided. He shall give such surety bond as the board shall from time to time prescribe, in not less than double the amount Duties of officers.

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of money he would hold at any one time, and the premium shall be a charge against the board.

Board to hold public meetings.

(c) The board shall hold public meetings at least once each year and as often and at such places as it may deem necessary.

Compensation of board members.

(d) Each member of the board shall receive as compensation five dollars ($5.00) for each day actually in session or actively engaged in the duties of the board or of his office, and actual necessary traveling expenses and hotel bills when in session. In addition, the secretary-treasurer shall be allowed an annual expense account not to exceed one hundred dollars ($100.00) for stenographic assistance.

Stenographic help authorized.

Disposition of fees and other revenue.

"The photographer's license fund."

Disposal of unexpended balances.

(e) The secretary-treasurer shall transmit to the state treasurer all fees or other revenue received by the board. The state treasurer shall place ten per cent (10%) thereof in the general fund to assist in defraying the cost of the maintenance of the state government, and shall place the remainder in a separate fund to be known as "The Photographers' License Fund", to be used only in defraying the expenses of the board and in the prosecution of violations of this act. Any other provision of law notwithstanding, the unexpended balance remaining in said photographers' license fund as of the end of the fiscal year shall not revert to the general fund but shall be credited to said fund for the succeeding fiscal year. The board shall never incur any expense nor approve any claim against said fund in excess of the balance therein, nor shall the state auditor issue any warrant against said fund in excess of said balance.

Section 4. **Authority to Give Examinations; Certificates and Licenses.**

Examination and certification of applicants.

(a) The board shall have authority to examine applicants who desire to practice photography in the state; to collect fees for such examinations, and to issue certificates of registration and license to practice photography to such as qualify as to competency, ability and integrity. The board shall adopt rules for the issuance of temporary certificates pending an examination, which shall be null and void after the next ensuing examination by the board. For the advance-

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ment of the profession, the board shall also provide for temporary certificates to apprentices.

Scope of examination.

(b) In giving examinations, the board may take testimony, under oath, which may be administered by any member, as to technical qualifications or the business record of the applicant, and the board may, at its discretion, for sufficient reason, grant or withhold a license to practice.

Forms of technical examination.

Section 5. **Forms of Technical Examinations.** The board shall provide three forms of technical examinations, covering respectively portrait, commercial work, and kodak or amateur finishing, and shall provide separate certificates for each such branch of photography. A certificate for any one branch shall not permit practice of the other branches, but a person may hold certificates in all three branches. An applicant may take the examination in one or more such branches of photography, and if taken at the same meeting of the board, one examination fee shall suffice.

Section 6. **Reports; Removal of Member.**

Report of proceedings to governor.

(a) The board shall make an annual report of its proceedings to the governor, not later than the fifteenth (15th) day of December of each year, which report shall contain an account of all moneys received and disbursed, from what source received, and for what purpose paid out.

Removal of board members.

(b) After a full and complete hearing of charges, the governor, on a majority vote of the remaining members and himself, may remove any member of the board for continued neglect of duty, incompetency, or unlawful or dishonorable conduct.

Section 7. **Examinations; Fees; Licenses.**

Application to practice.

(a) Every person desiring to commence the practice of photography in this state after this act takes effect, shall file an application, under his true name, for a license to so practice, together with an examination fee of twenty-five dollars ($25.00), with the secretary of the board. He shall appear before the board for examination within six (6) months, and present such references and credentials as the board may require, and shall give satisfactory evidence as to competency and

Examination fee.

Time for appearance of applicant.

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fitness to practice photography, based on technical knowledge and business integrity.

License to be issued to successful applicant.

(b) If the applicant successfully passes the examination, he shall be registered by the board as a qualified photographer and receive a license signed by each member, authorizing him to practice photography. Such license shall not be transferable.

Regulation concerning practice under assumed or fictitious name.

(c) No company, firm, corporation or association shall practice photography under an assumed or fictitious name, unless the name of the concern, together with the name of each person working under such name, or in any way associated with such concern who shall in all cases be a resident of Montana, shall be prominently and continuously displayed in the place of business of such concern. Said sign shall be conspicuously printed in plain type in the English language, on a card not less than twelve (12) by fourteen (14) inches, and shall be framed under glass.

Second examination may be taken.

Fee for.

Further examination.

(d) Fees paid for examinations shall in no case be refunded, but an applicant who fails in the first examination may take a subsequent examination in branches in which he failed, and the fee for such re-examination shall be ten dollars ($10.00). Should the applicant again fail, and desire to again come before the board for a third examination, he may make application as in the first instance, accompanied by the regular examination fee of twenty-five dollars ($25.00).

License to be recorded.

Section 8. **License to Be Recorded.** Each recipient of a license to practice photography shall record the same in the office of the county recorder of the county in which he practices photography, and shall keep such license conspicuously displayed in his camera room.

Fees.

Section 9. **Fees.**

Employers fee.

(a) Every person licensed to practice photography, who maintains an established place of photographic business, and who is not merely an employee of an established business, shall pay an annual fee of five dollars ($5.00) for an establishment license.

Employees fees.

(b) Every person licensed to practice photography, who is an employee of an established photographic business, shall pay an annual license fee as follows:

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1. If employed in the portrait or commercial branch of photography, three dollars ($3.00);

2. If employed in kodak or amateur finishing, two dollars ($2.00).

Fees payable, when.

(c) All fees shall be paid to the secretary on or before July first (1st), and he shall give a receipt for the same.

What is covered by payment of fee.

(d) The annual establishment fee shall include the issuance of certificates covering portrait, commercial, and kodak or amateur finishing when issued to the same person, provided he is qualified to hold the same. The annual employee fee shall cover issuance of all three certificates if applicant is qualified to hold same.

Notification of time for paying fee.

(e) The secretary shall notify every licensee, at his last known address, that his license fee is due on July first (1st) of each year after this act takes effect, and that his license will be revoked unless said fee is paid in full on or before October first (1st) of the same year, and thirty (30) days prior to said date shall send a second notice to all who have failed to make payment.

Fee for reinstatement upon revocation of license

(f) A photographer whose license is revoked for non-payment of the annual fee may make application to the secretary for reinstatement, accompanied by a fee of ten dollars ($10.00), and if the board shall find the applicant to be guilty of no violation of this act other than default in payment of annual dues, he may be immediately reinstated.

When license may be revoked.

Section 10. **Revocation of License.** The board shall have power to revoke the license of any photographer found guilty of fraudulent practices, or of willful misrepresentations, or for professional inactivity within the state for a period of one (1) year, unless given further time by the board, or who is convicted of a crime involving moral turpitude. Before any license shall be so revoked, the licensee shall be given notice in writing, mailed to his last known address, advising him of the charges, and at a date and place specified in said notice, not less than ten (10) days after service thereof, he shall be given a public hearing, and shall have the right to be represented by counsel and to present testimony in his behalf. In the conduct of any such hearing the board shall be governed by the usual rules of evidence, and all testimony shall be taken and a record of the hearing made and filed with the secretary of the board.

Notice of intention to revoke.

Hearing on revocation.

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Photographers now practicing to be licensed.

Section 11. **Photographers Practicing at Time Act Takes Effect.** The board shall issue a license certificate to every photographer lawfully engaged in the practice of photography in the state, at the time this act takes effect, upon receipt of an application accompanied by the fee prescribed by Section 9, which fee shall be deemed to be payment in full to July first (1st), 1938. Engagement in the lawful practice of photography shall be proven by the possession of a city license, issued prior to the date of passage of this act, in cities requiring city licenses, or in localities where city licenses are not required, by an affidavit signed by at least five (5) taxpayers, declaring the applicant to be engaged in the lawful practice of photography for profit, and permanently located. A resident photographer so entitled to a certificate shall make application therefor, accompanied by the proper fee, within thirty (30) days after notification by the secretary. Failure to do so shall act to forfeit the right to a certificate without examination.

Proof of qualifications.

Section 12. **Unlawful to Practice Without License.**

Unlawful to practice without license.

(a) From and after thirty (30) days following the organization of the board, and notification by the board of the requirements of this act with respect to the filing of application for license, it shall be unlawful for any person or firm not licensed as prescribed herein to practice photography, either directly or indirectly, or by agent or employee, or for any person representing himself to be qualified to practice photography in the state.

Persons regarded as practicing photography.

(b) A person shall be regarded as practicing photography who is a manager, proprietor or conductor of a place in which photographs are made and offered for sale.

Penalty for violations of act.

Section 13. **Misdemeanor to Practice Photography Without License.** Any person who shall practice, or attempt to practice, photography in the state, without first having complied with the provisions of this act, or who shall violate any provisions of this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine for each offense, of not less than fifty (50) nor more than two hundred (200) dollars, or by imprisonment in the county jail not less than thirty

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(30) days nor more than six (6) months, or by both such fine and imprisonment. Each sale shall be a separate offense.

Exemptions.

Section 14. **Exemptions.** Nothing in this act shall be construed to apply:

Employees of newspapers, etc.

(a) To a person in the employ of any newspaper or periodical publication, provided the negatives or photographs made by such person are not sold or offered for sale, or otherwise disposed of in this state for profit;

Personal photographers.

(b) To a person who shall make negatives or photographs for experimental purposes or for his or her own personal use or pleasure, provided such negatives or photographs are not sold or offered for sale in this state;

Employees of schools of state.

(c) Nor to a person who is in the employ of any school, college, or institution maintained by the State of Montana, who shall make negatives or any reproduction therefrom solely for the use of said school, college or institution, for educational or scientific purposes;

Doctors and dentists.

(d) To a licensed physician or dental practitioner who shall make negatives or photographs for clinical purposes;

Motion picture operators.

(e) To motion picture operators in making motion pictures;

X-ray, etc.

(f) To X-ray, blue print, photostatic or motion picture operators.

Saving clause.

Section 15. **Saving Clause.** If any part or provision of this act shall for any reason be adjudged by a court of competent jurisdiction to be invalid, the remainder thereof shall not thereby be invalidated, impaired, or affected.

Approved February 19, 1937.

CHAPTER 38

An Act to Amend Section 1200.4 of the Revised Codes of Montana of 1935, Creating a State Public School General Fund and Providing for the Disposal of School Moneys.

Be it enacted by the Legislative Assembly of the State of Montana:

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Amending clause.

Section 1. That Section 1200.4 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Creation of state public school fund.

"Section 1200.4. There is hereby created and established a fund to be known and designated as the state public school general fund, which the treasurer of the State of Montana shall ever keep separate and apart from all other funds and moneys in his custody, and into which there shall be paid all moneys coming to the state for distribution in support of the public schools

Moneys to be paid into fund.

of the state, save only such school funds as by Section 5, Article XI of the constitution of the State of Montana, or otherwise by constitutional provisions are to be kept and distributed in a manner other than as is provided in this act. Providing one hundred fifty thousand dol-

Proviso.

lars ($150,000.00) for the period ending March 15, 1938, and a like amount for the period ending March 15, 1939, shall remain in the common school equalization fund to be distributed as provided in the act creating said fund, until March 15th, 1939. Provided further that the total

Proviso.

amount received from the common school equalization fund and the state public school general fund does not exceed for any school year the amount needed to operate such school as determined under the plan set up by the state board of education as provided in the common school equalization fund law."

Section 2. This act shall be in full force and effect immediately from and after its passage and approval.

Approved February 20, 1937.

CHAPTER 39

An Act to Provide for the Exchange of Stored Water for the Flow Waters of Streams Within the State of Montana and Repealing All Acts and Parts of Acts in Conflict Herewith and Providing for the Taking Effect Thereof.

Be it enacted by the Legislative Assembly of the State of Montana:

Persons constructing reservoirs or buying stored water may divert natural flow of stream, when.

Section 1. Any person, persons, association or corporation, owning or in possession of lands susceptible of irrigation from any stream, the waters of which are so diminished by prior appropriations that a sufficient amount of water for the irrigation of their lands cannot

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be obtained from the natural flow of the stream, who shall construct a reservoir, or shall purchase or lease water from a reservoir owned by the state water conservation board of the State of Montana, or another, or shall otherwise acquire an interest in such reservoir, or in water stored therein, which is so located that because of natural or other obstacles the water impounded therein cannot be conducted to the lands which they desire to irrigate, may, provided the stored water can be discharged into the stream in such a manner that it can be used beneficially by prior appropriators, divert the natural flow of the stream for the irrigation of their lands in lieu of an equal amount of stored water, provided, however, that such exchange can be made without injury to said prior appropriators.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Section 3. This act shall be in full force and effect from and after the date of its passage and approval.

Approved February 20, 1937.

CHAPTER 40

An Act to Prohibit Any Authority, State Institution, Educational Institution, Board, Bureau, Commission or Department of the State of Montana Having Charge or Regulation or Supervision of the Disbursement or Expenditure of the Income Provided for Any Such State Institution, Board, Bureau, Commission or Department Maintained in Whole or in Part by the State, From Expending or Contracting to Expend, or Ordering or Requiring Any Inferior Authority to Expend, Any Amount in Excess of the Annual Income From Legislative Appropriation and Other Authorized Sources, Except as in This Act Permitted, and Granting the Board of Examiners Authority to Decrease Expenditures Under Appropriations Within the Limitations of This Act, and Providing Penalties for Violation of This Act and for the Removal From Office or Employment of Persons Violating This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

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Unlawful for state officers to expend more than amount appropriated.

Section 1. It shall be unlawful for the board of trustees, executive board, managerial staff, president, deans and faculty, or any other authority of any state institution maintained in whole or in part by the state, or for any officer, department, board, commission or bureau, having charge of the disbursement or expenditure of the income provided by legislative appropriation, or otherwise, to expend, contract for the expenditure, or to incur or permit the incurring of any obligation whatsoever, in any one year, in excess of the income provided for such year, or in excess of such income as decreased by the state board of examiners, under and in accordance with the provisions of Section 3 of this act, for such year, or for the state board of examiners, or any supervisory board or authority either directly or indirectly to authorize, direct or order any such institution, officer, department, board, commission or bureau to increase any expenditures, except as hereinafter provided, and it shall be and is hereby made the duty of any and all of such institutions, officers, departments, boards, commissions and bureaus to keep such expenditures, obligations and liabilities within the amount of such income.

Board of examiners shall not alter situation.

In emergency board may authorize expenditure in excess of appropriation.

Section 2. If it shall at any time appear to the state board of examiners that due to an unanticipated increase in the number of inmates or patients of any penal, custodial or charitable institution, or that due to any unforeseen and unanticipated emergency in the case of such institutions, or that due to any unforeseen and unanticipated emergency in the case of any other state institution, educational institution, department, board, commission or bureau, the amount appropriated for the maintenance and operation of any state institution, educational institution, department, board, commission or bureau, with all other income of the institution, if any, will be insufficient for such purposes during the year for which the appropriation was made, on written application to such state board of examiners, setting forth in detail the reasons therefor, said board of examiners, by an order made and entered at length, with such application, in its minutes, may authorize an expenditure to be made during such year for such purposes in such an amount in excess of such income for said year as said board of examiners may deem necessary and required, and the board, managerial staff or other authority

Procedure for authority to exceed.

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in charge of any state institution, educational institution, department, board, commission or bureau, may expend such amount, and no more, for such purposes during such year; provided that any increase in expenditure so authorized for any penal, custodial or charitable institution due to increase in number of inmates or patients, shall not exceed the cost per inmate day as set forth in the last preceding legislative budget for each such institution. Said state board of examiners shall report to the next legislative assembly the amount expended or indebtedness or liability incurred under such authority granted by it and request that a deficiency appropriation bill be passed to take care of and pay the same.

Limitation on.

Board of examiners to report to legislature.

Deficiency bill.

Section 3. Prior to the beginning of each fiscal year the board of examiners must cause an inspection and inventory to be made of the stocks of supplies, materials, and articles on hand at or in or at the disposition of such institution, board, bureau, commission or department and said board must decrease the expenditures for the ensuing fiscal year by the amount or value of such supplies, materials, and articles so on hand or available, capable of utilization in such ensuing period and where further quantities thereof, or of substitutes therefor, will not be required, said decrease shall be effective upon the entry of order therefor on the minutes of the said board of examiners, and written notice thereof to the institution, department, bureau, board, commission, office, officer or employee affected by such order of said board; provided, that the aggregate inventoried value of such stocks of supplies, materials, and articles on hand at or in or at the disposition of any such institution, board, bureau, commission or department as of June 30, 1936, as shown by the records of the state purchasing agent, shall not be deducted from appropriations available for such institutions.

Inventory of stocks, supplies, etc. to be considered in making appropriation.

Section 4. Any authority or member of a board of trustees or any person, officer or employee violating the provisions of Section 1 or Section 2 of this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00) or imprisoned in the county jail for not less than thirty days nor more than six months, or by both such fine and imprisonment; and in addition thereto, said authority, member, person, officer or employee, shall be per-

Penalty for violations of act.

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sonally liable, and the surety or sureties on his bond shall also be liable, to the State of Montana for the amount of the excess thus unlawfully expended, and said authority, member, person or officer shall be guilty of misfeasance in office, and such employee shall be guilty of wrong doing and each shall be subject to removal from office or from such employment, upon complaint of any taxpayer, filed in a district court of this state, and upon proof of violation of this act, in accordance with law.

Removal of officer.

Taxpayer may complain against.

Repealing clause.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Section 6. This act to take effect from and after its passage and approval.

Approved February 23, 1937.

CHAPTER 41

An Act to Amend Section 4506, Revised Codes of Montana 1935, Relating to Noxious Weeds and to Empower and Authorize the Board of Commissioners of Irrigation Districts to Spend District Funds in Controlling Perennial Noxious Weeds and Repealing All Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 4506 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Irrigation district boards may expend money to control noxious weeds.

Section 4506. The board of commissioners of each irrigation district is empowered and authorized to expend the funds of the district for the purpose of controlling perennial noxious weeds on lands within such irrigation district held in private ownership in all cases where control by tillage implements is impracticable.

Cost included in maintenance expense of district.

The board of commissioners of each irrigation district shall determine the total amount of district funds to be expended in any year for such purpose, and shall include such amounts in its ascertainment of the cost of maintenance and repairs of the irrigation works for such year, and in the levy of assessment therefor, as

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provided in Section 3275, of the Revised Codes of Montana 1935.

Kinds of weeds and plants to be destroyed.

Section 2. Each of the plants mentioned in this Section is hereby declared to be a noxious weed and a common nuisance. No person residing in, or owning land within an organized irrigation district, co-partnership, corporation, company, irrigation district, or drainage district owning, occupying or controlling land shall permit any Canadian thistle, quack grass, perennial sow thistle, wild morning glory, perennial milk weed, Russian knap weed and white top to come to bloom thereon.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved February 23, 1937.

CHAPTER 42

An Act to Protect Trade-Mark Owners, Producers, Distributors and the General Public Against Injurious and Uneconomic Practices in the Distribution of Competitive Commodities Bearing a Distinguishing Trade-Mark, Brand or Name, Through the Use of Voluntary Contracts Establishing Minimum Resale Prices and Providing for Refusal to Sell Unless Such Minimum Resale Prices Are Observed.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The following terms, as used in this act, are hereby defined as follows:

Definitions of terms used in act.

(a) "Commodity" means any subject of commerce.

(b) "Producer" means any grower, baker, maker, manufacturer, bottler, packer, converter, processor or publisher.

(c) "Wholesaler" means any person selling a commodity other than a producer or retailer.

(d) "Retailer" means any person selling a commodity to consumers for use.

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(e) "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a business trust or any unincorporated organization.

Contracts relating to purchase and sale of commodities.

Section 2. No contract relating to the sale or resale of a commodity which bears, or the label or container of which bears, the trade-mark, brand, or name of the producer or distributor of such commodity and which commodity is in free and open competition with commodities of the same general class produced or distributed by others shall be deemed in violation of any law of the State of Montana by reason of any of the following provisions which may be contained in such contract:

Valid provisions in.

Minimum resale price.

(a). That the buyer will not resell such commodity at less than the minimum price stipulated by the seller.

(b). That the buyer will require of any dealer to whom he may resell such commodity an agreement that he will not, in turn, resell at less than the minimum price stipulated by the seller.

(c). That the seller will not sell such commodity:

Provision for minimum price.

1. To any wholesaler, unless such wholesaler will agree not to resell the same to any retailer unless the retailer will, in turn, agree not to resell the same except to consumers for use and at not less than the stipulated minimum price, and such wholesaler will likewise agree not to resell the same to any other wholesaler unless such other wholesaler will make the same agreement with any wholesaler or retailer to whom he may resell; or

Wholesaler.

Retailer.

2. To any retailer, unless the retailer will agree not to resell the same except to consumers for use and at not less than the stipulated minimum price.

Section 3. For the purpose of preventing evasion of the resale price restrictions imposed in respect of any commodity by any contract entered into pursuant to the provisions of this act (except to the extent authorized by the said contract):

Acts violating minimum resale price provision.

(a). The offering or giving of any article of value in connection with the sale of such commodity;

(b). The offering or the making of any concession of any kind whatsoever (whether by the giving of coupons or otherwise) in connection with any such sale; or

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(c). The sale or offering for sale of such commodity in combination with any other commodity, shall be deemed a violation of such resale price restriction, for which the remedies prescribed by Section 6 of this act shall be available.

Who may establish minimum price.

Section 4. No minimum resale price shall be established for any commodity, under any contract entered into pursuant to the provisions of this act, by any person other than the owner of the trade-mark, brand or name used in connection with such commodity or by a distributor specifically authorized to establish said price by the owner of such trade-mark, brand or name used in connection with such commodity or by a distributor specifically authorized to establish said price by the owner of such trade-mark, brand or name.

When minimum resale price not binding.

Section 5. No contract containing any of the provisions enumerated in Section 2 of this act shall be deemed to preclude the resale of any commodity covered thereby without reference to such contract in the following cases:

Closing out stock of goods.

(a). In closing out the owner's stock for the bona fide purpose of discontinuing dealing in any such commodity and plain notice of the fact is given to the public; provided the owner of such stock shall give to the producer or distributor of such commodity prompt and reasonable notice in writing of his intention to close out said stock, and an opportunity to purchase such stock at the original invoice price;

Trademark removed from goods.

(b). When the trade-mark, brand or name is removed or wholly obliterated from the commodity and is not used or directly or indirectly referred to in the advertisement or sale thereof;

When goods are damaged.

(c). When the goods are altered, second-hand, damaged or deteriorated and plain notice of the fact is given to the public in the advertisement and sale thereof, such notice to be conspicuously displayed in all advertisements and to be affixed to the commodity;

Sale by officer.

(d). By any officer acting under an order of court.

Action for violation of minimum sale price agreement.

Section 6. Wilfully and knowingly advertising, offering for sale or selling any commodity at less than the stipulated price in any contract entered into pursuant to the provisions of this act, whether the person so advertising, offering for sale or selling is or is not

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a party to such contract, is unfair competition and is actionable at the suit of any person damaged thereby.

Agreements excluded from act.

Section 7. This act shall not apply to any contract or agreement between or among producers or distributors or between or among wholesalers or between or among retailers as to sale or resale prices.

Saving clause.

Section 8. If any provision of this act, or the application thereof to any person or circumstance, is held invalid, the remainder of the act, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

Repealing clause.

Section 9. All acts or parts of acts in conflict herewith are hereby repealed.

Name of act.

Section 10. This act may be known and cited as the "Fair Trade Act".

Section 11. This act shall be in full force and effect from and after its passage and approval.

Approved February 23, 1937.

CHAPTER 43

An Act Providing for the Establishing and Operation of a School for the Deaf and Blind in the New Building Erected for That Purpose at Great Falls, Montana.

And Providing for the Discontinuance of the Present School for the Deaf and Blind, and Providing Additional Housing and Educational Facilities for Montana State Training School at the Present Institution at Boulder, Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

School for deaf and blind transferred to Great Falls.

Section 1. That the state board of education is hereby instructed on or before the second Wednesday in September, 1937, to transfer the school for the deaf and blind, now being constructed at Boulder, Montana, to the new building erected for that purpose at Great Falls, Montana, and to provide the necessary staff for its operation and the required furnishings and equipment.

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Equipment to be moved.

The equipment in the printing shop and such other equipment in the institution at Boulder, used exclusively for instructional purposes for the deaf and blind shall be transferred to Great Falls, Montana, and installed in the new school for the deaf and blind hereby created.

New school at Great Falls a separate unit.

Section 2. The new school for the deaf and blind at Great Falls, Montana, shall be known as the "Montana State School for the Deaf and Blind", and shall be conducted as a separate unit, under the direction of the state board of education, with a local executive board to be appointed by the governor.

Under control of board of education.

Section 3. The state board of education shall prescribe rules, regulations and methods, governing the school, and the qualifications for admittance of students in conformity with present laws relating to the same and the qualifications of the superintendent and teaching staff.

New name for institution at Boulder.

Section 4. The present institution at Boulder shall be known henceforth as "Montana State Training School", and shall be conducted and operated under the direction of the state board of education, with a local executive board in conformity with the present laws relative to the same, and the buildings at this institution vacated by the school for the deaf and blind shall be used for additional housing and educational facilities of Montana State Training School.

Local executive board.

Repealing clause.

Section 5. All acts or parts of acts in conflict herewith are hereby repealed.

Section 6. This act shall be in full force and effect from and after its passage and approval.

Approved February 23, 1937.

CHAPTER 44

An Act to Amend Section 63 of the Revised Codes of Montana, 1935, Relating to the Number, Designation, Election and Appointment of Officers and Employees of the House of Representatives.

Be it enacted by the Legislative Assembly of the State of Montana:

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Amending clause.

Section 1. That Section 63 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Number and designation of officers and employees of house of representatives.

"Section 63. **Officers and Employees of the House.** The officers and employees of the house of representatives shall consist of a speaker, a speaker pro tem, one chief clerk, one sergeant at arms, one chaplain, one first assistant to sergeant at arms, one second assistant to sergeant at arms, one assistant to chief clerk, one clerk to chief clerk, one bill clerk, one assistant bill clerk, one reading clerk, one clerk to sergeant at arms, one journal clerk, one assistant journal clerk, one enrolling clerk, one assistant enrolling clerk, one engrossing clerk, one assistant engrossing clerk, one printing clerk, one secretary to speaker, one mailing and filing clerk, one secretary to judiciary committee, one secretary to appropriations committee, one payroll clerk, one head janitor, three assistant janitors, three doorkeepers, three watchmen, five pages, two telephone operators, two elevator operators, one law clerk, one assistant law clerk, and any other employees such as committee clerks, stenographers or proof readers, provided that the total number of committee clerks, stenographers and proof readers together shall not exceed eighty."

Maximum number allowed.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Section 3. This act shall take effect from and after May 1, 1937.

Approved February 23, 1937.

CHAPTER 45

An Act to Re-enact Section 4466 of the Revised Codes of Montana, 1935, Legalizing and Validating Sales of Real Property Owned by Any County in This State by the Board of County Commissioners Thereof, and for the Purpose of Validating All Such Sales Made by Any Such County Subsequent to the Last Re-enactment of Said Section 4466.

Be it enacted by the Legislative Assembly of the State of Montana:

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Amending clause.

Section 1. That Section 4466 of the Revised Codes of Montana, 1935, be and the same is hereby amended and re-enacted to read as follows:

Validating of sales of property by county.

"4466. All sales heretofore made of real property owned in fee simple by any county in this state, by the board of county commissioners of any county, the validity of which may be in doubt or involved by reason of the failure of the board of county commissioners to comply with the provisions of Section 4465.9, are hereby legalized and declared to be valid and binding sales, and all deeds or conveyances heretofore executed by any board of county commissioners, or by its chairman duly authorized by said board, for and on behalf of any county, transferring and conveying any such property so sold, are hereby legalized and declared to be valid, and vesting the title of the property so conveyed in the purchaser named in such conveyance in fee simple."

Section 2. That this act shall be in full force and effect from and after the date of its passage and approval.

Approved February 23, 1937.

CHAPTER 46

An Act to Amend Sections 303, 135, 384 and 521 of the Revised Codes of Montana of 1935, Relating to the Distribution of Public Documents and Reports.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 135 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Secretary of state to distribute journals and session laws.

"Section 135. **Distribution of Senate and House Journals and Session Laws.** Immediately after the senate and house journals and the session laws mentioned in subdivision nine of the preceding section are bound, the secretary of state must distribute the same as follows:

1. To the county clerk of each county one copy of the senate journal and one copy of the house journal for the use of the county.

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Persons entitled to journals.

2. To the state historical library such number of copies of the senate and house journals, not exceeding 150 of each, as may be required by it for purposes of distribution and exchange; to the state law librarian, two copies of each house and of each senate journal for the use of said library, and such additional copies as may be necessary for the purposes of exchange; and to the Library of Congress, two copies of each house and of each senate journal.

3. To the lieutenant governor, each member of the legislative assembly, secretary of the senate and chief clerk of the house of representatives at the session at which the laws and journals were adopted, one copy.

He Shall Distribute the Session Laws as Follows:

Persons entitled to session laws.

1. To each department of the government at Washington, and of the government of this state, one copy.

2. To the library of congress, eight copies; and to the state library, two copies.

3. To the state historical and miscellaneous library, two copies; to the state law librarian, four copies for the use of said state law library.

4. To the law libraries and the legislative reference libraries of each of the states and territories such number of copies as are given by them in exchange with the Montana state law library and the legislative reference libraries.

5. To the members of congress, to the United States district judge, to each of the judges of the supreme and district courts, and to each of the state officers of the state, one copy.

6. To the lieutenant governor, each member of the legislative assembly, secretary of the senate, and chief clerk of the house of representatives at the session at which laws and journals were adopted, one copy.

7. To each of the incorporated colleges of the state and to each unit of the state university and institutions, one copy; to the law librarian of the state of Montana as many copies as may be required by him for exchange with libraries and institutions maintained by other states, territories and public libraries.

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8. To the county clerk of each county, three copies for the use of the county.

9. To each county attorney, and to each clerk of the district court, one copy."

Amending clause.

Section 2. That Section 303 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Printing and distributing copies of budget.

"Section 303. **Printing and Distribution of Budget.** The state board of examiners shall have printed before the tenth day of each session of the legislative assembly, the budgets provided for herein, and shall distribute copies of the same to the members of the legislative assembly, to all the state departments, institutions and agencies, and two copies to the library of congress at Washington."

Amending clause.

Section 3. That Section 384 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Secretary of state to purchase supreme court reports.

"Section 384. **Distribution of Reports.** On the publication of each volume of said reports the secretary of state shall purchase of said publisher, for the use of the state, three hundred copies thereof, and shall distribute the same in the manner following: To the law libraries of each state and territory of the United States, one copy; to the Library of Congress, five copies; to each of the judges of the United States district courts of the states of Idaho, Nevada, California, Washington, Montana, Wyoming, and Oregon, one copy; to each state officer, justice of the supreme court, district judge, county attorney and clerk of the district court in this state, one copy; to the law library of the State of Montana, three copies. He shall also distribute said reports to literary and scientific institutions, publishers and authors and legislative reference libraries of other states with whom the state law librarian has established or may hereafter establish a system of exchange. He shall also distribute to the University of Montana not to exceed fifty copies to be used by the law librarian of the state university for the purpose of exchanges with universities and institutions of higher education in other states. All reports distributed to state, district, and other officers in the state shall be for the use of their office, and

To whom distributed.

Officers to turn reports over to successors.

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shall be, by the person receiving the same, turned over to his successor in office, and the secretary of state shall take proper receipts for such reports."

Amending clause.

Section 4. That Section 521 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Distribution of public reports by secretary of state.

"Section 521. **Distribution of Public Reports.** The reports must be delivered by the secretary of state as follows: To the governor, twenty-five copies of each report; to the librarian of the historical and miscellaneous department of the state library, at least one hundred and fifty copies of each report; to the secretary of state, twenty-five copies of each report; to the library of congress, two copies of each report; to the superintendent of public instruction, two hundred and fifty copies of his report for distribution to school trustees and teachers, and for exchange with other states; to the state board of land commissioners, two hundred copies of their report for distribution to the county surveyors, assessors, county clerks for several counties, and for exchange with other states; to the state auditor, one hundred and fifty copies of his report; to the secretary of state, one hundred copies of his report; to the librarian of the historical and miscellaneous department of the state library, four hundred copies of his report; to the librarian of the law department of the state library, fifty copies of his report; to the officers of the state board of commissioners for the insane, deaf, dumb and blind asylum, fifty copies of their report; to the state board of education, one hundred copies of their report; and the remaining copies of such reports, one-third to the order of the sergeant-at-arms of the senate, and two-thirds to the order of the sergeant-at-arms of the house, to be by them distributed pro rata to the members of the senate and house next to convene."

Repealing clause.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Section 6. This act shall be in full force and effect from and after its passage and approval.

Approved February 23, 1937.

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CHAPTER 47

An Act to Amend Section 5221 of the Revised Codes of Montana of 1935 Relating to the Powers of City or Town Clerk and the City or Town Treasurer in Collecting an Annual Road Poll Tax.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 5221 of the Revised Codes of Montana of 1935, be, and the same hereby is amended to read as follows:

Powers of city officers to collect poll tax.

"Section 5221. The city or town clerk, in making such **list, and the city or town treasurer in collecting such** tax, have the same powers in reference thereto as the county assessor and county treasurer have in assessing and collecting the poll-tax provided for in Sections 2238 to 2252.2, inclusive, of this code."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 23, 1937.

CHAPTER 48

An Act to Amend Section 5194 of the Revised Codes of Montana for 1935, Relating to the Limitation on Amount of Tax to Be Levied by Cities and Towns for Municipal Purposes and to the Amount of Tax That May Be Assessed and Levied by Cities and Towns for the Purpose of Maintaining Public Parks in Addition to the Levy for General Municipal or Administrative Purposes.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 5194 of the Revised Codes of Montana 1935 be, and the same hereby is, amended to read as follows:

Limitation on municipal taxes.

"Section 5194. **Limitation on Amount of Tax for Municipal Purposes—Distribution of Funds—Levy for Park**

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Purposes. The amount of taxes to be assessed and levied for general municipal or administrative purposes in cities of the first class with a population of thirty-five thousand or over must not exceed one and four-tenths per centum of the assessed value of the taxable property in all cities of the first class, and all other cities and towns must not exceed one and three-fourths per centum on the per centum of the assessed value of the taxable property of the city or town; and the council in each city or town may distribute the money collected into such funds as are prescribed by ordinance; provided, that for the purpose of maintaining public parks, the council in any city or town may assess and levy, in addition to the said levy for general municipal or administrative purposes, not exceeding three mills on the dollar on the per centum of the assessed value of the taxable property of the city or town."

Cities of the first class.

All other cities.

Distribution of tax money.

Additional levy for public parks.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 23, 1937.

CHAPTER 49

An Act to Repeal Section 2090.1 of the Revised Codes of Montana of 1935, Relating to the Assessment of Royalty in Kind..

Be it enacted by the Legislative Assembly of the State of Montana:

Repealing clause.

Section 1. That Section 2090.1 of the Revised Codes of Montana of 1935 be, and the same is hereby repealed.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved February 23, 1937.

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CHAPTER 50

An Act to Amend Sections 62 and 76, Revised Codes of Montana of 1935, and Chapter 6 of the Acts of the Twenty-fourth Legislative Assembly of Montana of 1935, Relating to the Number, Designation, Election, Appointment and Compensation of Officers and Employees of the Legislative Assembly and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 62 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Designation of officers and employees of senate.

"Section 62. **Officers and Employees of Senate.** The officers and employees of the senate may consist of a president, a president pro tem., one secretary of the senate, one assistant secretary of the senate, one chaplain, one sergeant-at-arms, three assistant sergeants-at-arms, one clerk to the sergeant-at-arms, one secretary to the president, one journal clerk, one assistant journal clerk, one enrolling clerk, one assistant enrolling clerk, one engrossing clerk, one assistant engrossing clerk, one bill clerk, one assistant bill clerk, one reading clerk, one printing clerk, one mailing clerk, one doorkeeper, three assistant doorkeepers, one janitor, three assistant janitors, one day watchman, one night watchman, four pages and such number of committee clerks and/or stenographers as the senate may, by motion, from time to time determine, not exceeding forty in number; provided, however, that when the orderly and expeditious conduct of the business of the senate so requires, the senate may, by resolution, authorize the employment of one senate law clerk and/or one assistant senate law clerk, in addition to the hereinabove specifically enumerated officers and employees."

Number and how employed.

Amending clause.

Section 2. That Section 76 of the Revised Codes of Montana of 1935, and Chapter 6 of the Acts of the Twenty-fourth Legislative Assembly of Montana of 1935, be, and the same are hereby amended to read as follows:

Compensation of legislative employees.

"Section 76. **Compensation of Other Officers and Employees.** The compensation designated herein shall be paid to the following officers and employees of the legislative assembly;

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The secretary of the senate, the chief clerk of the house of representatives, the sergeant-at-arms of each house, the senate law clerk and the house of representatives law clerk, ten dollars ($10.00) per day each;

The assistant secretary of the senate, the assistant chief clerk of the house of representatives, the journal clerk, the enrolling clerk, the engrossing clerk, the bill clerk, the assistant sergeants-at-arms of the senate, the assistant sergeants-at-arms of the house of representatives, eight dollars ($8.00) per day each;

The assistant senate law clerk and the assistant house of representatives law clerks, (in case such assistants are employed) seven dollars ($7.00) per day;

The assistant journal clerk, the assistant enrolling clerk, the assistant engrossing clerk, the assistant bill clerk, the printing clerk, the reading clerk, the clerk to the sergeant-at-arms and the mailing clerk of the senate, the clerk to the chief clerk of the house of representatives, the clerk to the secretary of the senate, the secretary to the president of the senate, the payroll clerk of the house of representatives, the secretary to the speaker of the house of representatives, the mailing and filing clerk of the house of representatives, the secretary to the house of representatives appropriations committee, six dollars ($6.00) per day each;

The chaplain, committee clerks, stenographers, typists, proofreaders, doorkeepers, assistant doorkeepers, janitors, assistant janitors and watchmen of each house, the telephone operators of the house of representatives, the elevator operators of the house of representatives, five dollars ($5.00) per day each;

Pages, four dollars ($4.00) per day each; all other employees of the legislative assembly not herein specifically enumerated, five dollars ($5.00) per day each;

Time for which salaries paid.

The salaries herein specified shall be paid for each and every day of the entire legislative session, commencing with the date of employment of the officer or employee, save and except that any of said officers or employees whose services are dispensed with for any portion of the session shall receive pay only for the number of days during which services are performed by such officer or employee."

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Repealing clause.

Section 3. That Sections 62 and 76 of the Revised Codes of Montana of 1935 and Chapter 6 of the Acts of the Legislative Assembly of Montana of 1935, and all acts and parts of acts in conflict herewith are hereby repealed.

Section 4. This act shall take effect and be in full force from and after its passage and approval.

Approved February 23, 1937.

CHAPTER 51

An Act to Amend Section 5245 of the Revised Codes of the State of Montana of 1935, Relating to Interest on Assessments in Special Improvement Districts and Fixing the Rate of Interest at Not to Exceed Six Per Cent (6%) Per Annum.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 5245 of the Revised Codes of the State of Montana of 1935, be, and the same is hereby amended to read as follows:

Maximum rate of interest on special improvement assessments.

"Section 5245. **Interest on Assessments.** Upon all special assessments and taxes, levied and assessed in accordance with any of the provisions of this act, simple interest shall be charged at a rate not exceeding six per cent (6%) per annum, and the treasurer, in collecting such special assessment taxes, if the same are payable in one installment, shall collect such interest as may be shown to be due thereon by the resolution levying such assessment; and if such assessment be payable in installments the treasurer shall, at the time of collecting the first installment, collect such interest as may be shown to be due on such assessment by the resolution levying such assessment, and thereafter he shall collect with each subsequent installment interest on the whole amount remaining unpaid."

How collected.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 23, 1937.

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CHAPTER 52

An Act Providing for the Establishment, Regulation, Supervision, Licensing and Bonding of Livestock Markets, and Prescribing a Penalty for Violations Thereof.

Be it enacted by the Legislative Assembly of the State of Montana:

Licensing of livestock markets.

Section 1. **Establishment.** Any person upon making to the livestock commission of the State of Montana, a written statement satisfactory to said commission, of financial responsibility, and of ownership or control of adequate facilities for the care, sorting, feeding, loading, unloading, and shipment of livestock for the operation of a livestock market, and tendering the fee and furnishing the bond prescribed herein, may secure a license from the said commission, to establish and operate within the State of Montana for one year, a livestock market as hereinafter defined. The operation of a livestock market in this state without such license is a penal offense, punishable as hereinafter prescribed.

Definitions.

Section 2. **Definitions.** When used in this act.

"Livestock."

a. The term "livestock" shall mean and include horses, mules, cattle, swine, sheep and goats.

"Livestock markets."

b. The term "livestock market" shall mean a place where a person, partnership or corporation shall assemble livestock for either private or public sale. Such service is to be compensated for by owner, on a commission basis, except: (1) Any place used solely for a dispersal sale of the livestock of a farmer, dairyman, livestock breeder or feeder who is discontinuing said business and no other livestock is there sold or offered for sale: (2) Any farm, ranch, or place where livestock either raised or kept thereon for the grazing season or for fattening is sold, and no other livestock is brought there for sale or offered for sale: (3) The premises of any butcher, packer, or processor who received animals exclusively for immediate slaughter: (4) The premises of any person, firm, or corporation engaged in the raising of livestock for breeding purposes only, who limits his or its sales to animals of his or its own production: (5) Any place where an association of breeders of livestock of any class assemble and offer for sale and sell under

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their own management any livestock, who assume all responsibility of such sale and the title of livestock sold.

"Person." c. The term "person" shall mean and include all persons, co-partnership, association, or corporation.

License required. Section 3. **License.** After May 1, 1937, no person shall engage in the operation of a livestock market within the State of Montana without first procuring a license from the livestock commission, and paying therefor a fee of one hundred dollars ($100.00). Said license may be renewed to eligible applicants prior to May first of each calendar year thereafter, upon regular application for, and payment of the regular fee. An application for a license to establish and operate a livestock market shall be in writing upon a blank form to be furnished and containing such information as shall be required by the livestock commission, and shall be accompanied by the fee above described. If the livestock commission does not issue a license or renewal, the fee must be returned to the applicant.

Fee for.

Renewal of.

How obtained.

Bond required. Section 4. **Bond.** No license or renewal of license to establish and operate a livestock market within the State of Montana shall be issued until the applicant shall have executed to the State of Montana, a bond in the penal sum of ten thousand dollars ($10,000.00), upon a form prescribed by the livestock commission, with surety to be approved by the commission, conditioned upon the payment of all money received, less reasonable expenses and agreed commissions by the licensee and operator of such livestock market to the rightful owner or owners of livestock so consigned and delivered to such licensee for sale forthwith upon the sale of such livestock, and also a full compliance with all of the terms and requirements of this act, and the acceptance and approval of said bond by the livestock commission, and the approval thereof as to form by the attorney general of Montana. When so approved said bond shall be filed with the secretary of the livestock commission. Actions of law may be brought in the name of the state upon any such bond for the use and benefit of any person who may suffer loss or damage from violations thereof, and may be brought by any such person suffering loss or damage in the county of his residence. Copies of any such licenses and bond certified by the secretary of the livestock commission may be procured upon payment of the fee of

Conditions of.

Where filed.

Actions on bond, persons who may bring.

Copies of bond.

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one dollar ($1.00) each and shall be received as competent evidence in any court of the State of Montana.

License to be posted in place of business.

Section 5. **Posting Licenses.** A certified copy of an issued license may be procured by the holder of the original upon payment of a fee of one dollar ($1.00) therefor, and the original or certified copy of said license shall be posted during sale periods in a conspicuous place on the premises where the livestock market is conducted.

Livestock commission to make regulations.

Section 6. **Rules and Regulations.** The livestock commission or the livestock sanitary board may adopt any such rules and regulations as it may deem necessary in the administration of this act.

Cancellation or suspension of license for violations.

Section 7. **Cancellation or Suspension.** Any violation of the provisions of this act, or of any of the conditions of the bond, or of any rules or regulations adopted and published by the livestock commission or any violation of the laws of the State of Montana including the laws requiring the inspection of horses and cattle as contained in Chapter 287, Sections 3317-3323.2 and Chapter 288, Sections 3324-3327.2 of the Political Code of the Revised Codes of Montana 1935, shall be deemed a sufficient cause for the cancellation of the license of the offending operator of such livestock market. The following shall also be specific grounds for cancellation of such license:

Specific grounds for cancellation.

a. If the Montana livestock commission find that such licensee has been guilty of fraud or misrepresentation as to the titles, brands or ownership.

Fraud or misrepresentation.

Records to be kept.

Section 8. **Records Required.** Each licensee shall keep such accounts, records, and memoranda, and shall make such reports as may from time to time be required by the livestock commission, and the said commission shall at all times have access to such accounts, records and memoranda.

Procedure on complaint for violations of act.

Section 9. **Investigations and Hearings.** The livestock commission, or any member thereof, or the secretary of the livestock commission, may upon their own motion, or upon verified complaint in writing of any person, whenever they or either of them deem it necessary, shall investigate the actions of any licensee, and if they or either of them find it proper to do so, shall file complaint against the licensee with the livestock commission, and said complaint shall be set down for hearing before

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said commission upon ten (10) days' notice served upon such licensee either by personal service upon him or by registered mail or by telegram prior to such hearing. Notice of hearing.

The livestock commission shall have power to administer oaths, certify to all official acts and shall have the power to subpoena and bring before them any person in this state as a witness, compel the producing of books and papers and to take the testimony of any person or deposition in the same manner as is prescribed by law in the procedure before the courts of this state in civil cases. Process issued by the commission shall extend to all parts of the state and may be served by any person authorized to serve process. Each witness that shall appear by the order of the commission shall receive for his attendance the same fees and mileage allowed by law to witnesses in civil cases appearing in the district court, which amount shall be paid by the party at whose request such witness is subpoenaed. When any witness has not been required to attend at the request of any party, but subpoenaed by the commission, his fees and mileage shall be paid in the same manner as other expenses of the said department are paid. Powers of livestock commission to enforce act. Process of commission. Fees and mileage of witnesses.

Section 10. **Appeal.** If the commission shall refuse to grant an application for a license or shall suspend or revoke a license and the licensee shall feel aggrieved by the decision of the commission, he may appeal to the district court of the county in which he has his principal place of business, by giving notice of such appeal in writing to the commission and filing a bond with the clerk of the district court in the sum of three hundred dollars ($300.00) to be approved by the judge of said court, conditioned to pay all costs that may be awarded against such appellant in the event of an adverse decision, said bond and notice and a transcript of the complaint, pleadings, notices, motions and other papers filed in the cause with the commission, certified by the secretary of the livestock commission, to be filed within ten (10) days from the date of the decision of the commission. Cost of preparing such transcript shall be paid by appellant. The filing of such notice and bond shall supersede the order of the commission until the final determination of the appeal. The judge of the court shall summarily hear and determine the questions involved in said appeal and shall receive and consider any pertinent evidence whether oral or documentary Appeals from decision of commission. Notice of. Bond on appeal. Cost of transcript. Hearing in district court.

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concerning the matter. If the aggrieved person should fail to perfect his appeal or file said transcript as herein provided, said stay shall automatically terminate. Appeals from judgments of the district court may be taken to the supreme court in the same manner as appeals are taken in civil actions.

Appeal to supreme court.

Operator of market to warrant title of livestock sold.

Section 11. **Title.** The operator of each livestock market in this state shall warrant to the purchaser thereof the title of all livestock sold through his livestock market and shall be liable to the rightful owner thereof for the net proceeds in cash received for such livestock so sold, and it shall be the further duty of such operator when notified by the authorized brand inspector, that there is a question as to whether any designated livestock sold through such market is lawfully owned by the consignor thereof, to hold the proceeds received from the sale of said livestock for a reasonable time not to exceed sixty (60) days, to permit the consignor to establish ownership, and if at the expiration of that time, the consignor fails to establish his lawful ownership of such livestock, said proceeds shall be transmitted by such operator to the secretary of the livestock commission, which secretary shall have authority to dispose of such proceeds in accordance with Chapter 290, Sections 3333-3334 of the Political Code, Revised Codes of Montana 1935, relating to the distribution of estray money, and the secretary's receipt therefor shall relieve said operator from further responsibility for said proceeds. Proof of ownership and account of all sales of livestock shall be transmitted by the authorized brand inspector to the secretary of the livestock commission.

Procedure where ownership of stock is in doubt.

Disposition of fees.

Section 12. **Disposition of Fees.** All fees collected by the commission under the provisions of this act shall be paid into the state treasury monthly and shall be credited to the livestock commission fund.

Dispersal sales.

Section 13. **Dispersal Sales.** All dispersal sales made at livestock markets shall meet the requirements prescribed for other livestock passing through such market.

Penalty for violations.

Section 14. **Penalty for Violation of Act.** Any person who shall violate any provisions or requirement of this act or rule or regulation adopted by the livestock commission pursuant to this act, shall be deemed guilty of a misdemeanor and upon conviction shall be punished

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by a fine of not less than one hundred dollars ($100.00) or by imprisonment in the county jail for a period not less than thirty (30) days or by both such fine and imprisonment. Every person who having been convicted of a violation of this act shall after such violation of any of the provisions of this act again be found guilty of a violation as aforesaid shall be punished by a fine of not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00) or by imprisonment in the county jail for not less than thirty (30) days nor more than six (6) months or by both such fine and imprisonment.

Saving clause.

Section 15. **Validity.** If any section or provision of this act shall be adjudged to be invalid, such adjudication shall not affect other sections or provisions thereof but they shall be of the same force and effect as if enacted separately.

Repealing clause.

Section 16. **Repeal.** All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Section 17. **Effective.** This act shall be in full force and effect from and after its passage and approval.

Approved February 23, 1937.

CHAPTER 53

An Act to Amend Section 2891 of the Revised Codes of Montana of 1935, Relating to the Compensation to Children, Brothers and Sisters, and Invalid Children, and When Such Compensation Ceases, All Under the Workmen's Compensation Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 2891 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Restriction on age limit of children receiving benefits of workmen's compensation.

"Section 2891. **Compensation to Children, Brothers and Sisters, and Invalid Children—When Ceases.** In computing compensation to children and to brothers and sisters, only those under eighteen (18) years of age, except as hereinafter provided, shall be included.

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Orphans.

Orphan children or orphan brothers and sisters, under the age of twenty-one (21) years, and invalid children over the age of twenty-one (21) years shall also be included, and in case of invalid children, only during the period during which they are under that disability, all within the maximum limitations elsewhere in this act provided, after which payments on account of such person or persons shall cease.

Children not orphans.

Compensation to children, or brothers and sisters, except orphans and invalid children, shall cease when such persons reach the age of eighteen (18) years, and in all cases shall cease when such person marries; provided that for the purpose of determining the amount of compensation due to injured employees, as provided in Sections 2912, 2913, 2914 and 2920 of the Revised Codes of Montana of 1935, no child or children, or brother or sister over the age of eighteen (18) years, except invalid children, shall be considered. An orphan as defined herein shall mean a child who is bereaved of both parents."

Orphan defined.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 24, 1937.

CHAPTER 54

An Act to Amend Section 2231, Revised Codes of Montana, 1935, Relating to Assessment and Sale of Real Estate for Taxes.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 2231, Revised Codes of Montana 1935, be, and the same is, hereby amended to read as follows:

Assessment of property held by county under a tax sale certificate.

"Section 2231. **Assessment of Property on Which a Tax Sale Certificate Has Been Purchased by County and Adjournment of Sale Thereof.** In case a tax sale certificate on property assessed for taxes is purchased

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by the county, or otherwise, pursuant to provisions of Section 2191 of this code, it must be assessed for taxes the next year in the same manner as if it had not been so purchased. If the taxes resulting from such assessment are not paid when such taxes become due, said property shall again be sold, in manner as above described, and said assessment of such property, and the sale of same, when the said taxes have not been paid upon coming due, or the property redeemed, shall be continued until the time when such property shall have been redeemed from such sales; provided, however, that no tax deed shall issue to any purchaser, other than the county under said sales, until the applicant for such tax deed shall have paid and discharged all taxes, penalty and interest accumulated at the time of such application. Providing further that purchasers of certificates of tax sale, for years subsequent to the oldest outstanding tax sales certificate, shall have the same privilege of redemption, of such oldest outstanding tax sales certificate, as is the privilege of the original owner of the property. Nothing herein contained shall be construed to apply to holders of tax certificates, other than counties, at the time this act becomes effective."

When tax deed shall be issued.

Right of purchaser of tax sale certificate.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved February 25, 1937.

CHAPTER 55

An Act to Amend Section 191.2 of Chapter 20, Revised Codes of Montana, 1935, Relating to the Apportionment of Funds Received From the Federal Government Under Provision of the Taylor Grazing Act, and Expenditure Thereof.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 191.2, Chapter 20, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Amending clause.

Section 191.2. **Apportionment of Money to Counties and Expenditure Thereof.** It shall be the duty of the state treasurer to properly apportion and allocate all moneys, except moneys received from lands purchased

Allocation of money received from U. S. under Taylor grazing act.

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by the United States by any of its purchasing agencies, received from the treasurer of the United States as provided for in Section ten (10) of the Taylor Grazing Act approved June 28, 1934, and as amended June 26, 1936, to the county treasurers to a fund to be designated as special grazing fund, which fund shall be paid out on warrants of authority issued by the district advisory board of the Taylor Grazing Act when signed by the chairman and secretary of the district advisory board.

Purposes for which funds may be expended.

The funds derived from the provisions of Section ten (10) of the Taylor Grazing Act shall be expended only for range improvements such as fences, reservoirs, wells, and for such other range improvements situated within the county or counties and district as the district advisory board may approve. Before any improvement herein provided for can be made, or any money expended, such improvements shall be approved by the district advisory board and a record of approval of such improvements shall be spread upon the minute records of the board.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 25, 1937.

CHAPTER 56

An Act to Amend Section 3906 Revised Codes of Montana of 1935 by Striking Out That Portion of the Third Paragraph of Said Section Providing That All Rates Fixed by the Commission Shall Remain in Full Force and Effect Until Final Determination by Courts Having Jurisdiction, and Substituting, for the Stricken Matter, a Provision Authorizing the Issuance of a Restraining Order, and Providing for the Impounding or Earmarking of the Difference Between the Old and New Rates, as Designated by the Public Service Commission, Pending Final Determination of the Cause.

Be it enacted by the Legislative Assembly of the State of Montana:

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Amending clause.

Section 1. That Section 3906 Revised Codes of Montana of 1935 be amended to read as follows:

Action to set aside orders of public service commission.

Section 3906. **Action to Set Aside Rates or Charges Fixed by Commission.** Any party in interest being dissatisfied with an order of the commission fixing any rate or rates, fares, charges, classifications, joint rate or rates, or any order fixing any regulations, practices, or services, may within ninety days commence an action in the district court of the proper county against the commission and other interested parties as defendants, to vacate and set aside any such order on the ground that the rate or rates, fares, charges, classifications, joint rate or rates, fixed in such order is unlawful or unreasonable, or that any such regulation, practice, or service, fixed in such order, is unlawful or unreasonable. The commission and other parties defendant shall file their answer to said complaint within thirty days after the service thereof, whereupon such action shall be at issue and stand ready for trial upon twenty days' notice to either party.

Commission to file answer in 30 days.

Precedence over other civil actions.

All actions brought under this Section shall have precedence over any civil cause of a different nature pending in such court, and the court shall always be deemed open for the trial thereof, and the same shall be tried and determined as other civil actions; any party to such action may introduce evidence in addition to the transcript of the evidence offered to such commission. Any party in interest being dissatisfied with the order of the commission fixing any rate or rates, fares, charges, classifications, joint rate or rates, or any order fixing or prescribing any rule, regulation, practice, or service, may apply to the district court having jurisdiction, for, and upon proper showing there shall be issued by such court, an injunction, staying and suspending the operation of the order of the commission pending the final determination of the reasonableness and lawfulness of said order in the courts. All orders of the commission shall become operative within twenty days after the filing of the order by the commission subject to the right of stay and injunction as hereinbefore provided. As a condition to the granting of such injunction, the court shall require of the party seeking such injunction an undertaking entered into on the part of the plaintiff, supported by responsible corporate surety, in such reasonable sum as the court shall direct, to the effect

Evidence on trial of action.

Injunction may issue, when.

Effect of.

Orders of commission, effective when.

Undertaking required before issuing injunction.

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Conditions of.

that the plaintiff will pay all damages which the opposite party may sustain by reason of the delay or prevention of the order of the commission becoming effective if said order is sustained in the final determination or in proceedings involving rates the court may in the alternative require the difference between the existing rate and the commission ordered rate to be impounded under the direction of the court, pending the final determination of the action.

Hearing and procedure in district court.

If, upon the trial of such action, evidence shall be introduced by the plaintiff which is found by the court to be different from that offered upon the hearing before the commission, or additional thereto, the court, before proceeding to render judgment, unless the parties to such action stipulate in writing to the contrary, shall transmit a copy of such evidence to the commission, and shall stay further proceedings in said action for fifteen days from the date of such transmission. Upon receipt of such evidence, the commission shall consider the same, and may modify, amend, or rescind its order relating to such rate or rates, fares, charges, classifications, joint rate or rates, regulation, practice, or service complained of in said action, and shall report its action thereon to said court within ten days from the receipt of such evidence.

Commission to be given time to consider new evidence.

Modification after consideration.

Judgments possible on hearing.

If the commission shall rescind its order complained of, the action shall be dismissed; if it shall alter, modify, or amend the same, such altered, modified, or amended order shall take the place of the original order complained of, and judgment shall be rendered thereon, as though made by the commission in the first instance. If the original order shall not be rescinded or changed by the commission, judgment shall be rendered upon such original order.

Appeal to supreme court.

Either party to said action, within sixty days after service of a copy of the order or judgment of the court, may appeal or take the case up on error as in other civil actions. Where an appeal is taken to the supreme court of Montana, the cause shall, on the return of the papers to the higher court, be immediately placed on the calendar of the then pending term, and shall be assigned and brought to a hearing in the same manner as other causes on the calendar.

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In all actions under this act, the burden of proof shall be upon the party attacking or resisting the order of the commission to show that the order is unlawful or unreasonable, as the case may be. Burden of proof.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved February 25, 1937.

CHAPTER 57

An Act to Amend Section 1224.6 of the Revised Codes of Montana of 1935 Relating to the Powers of the Trustees of School Districts to Issue Refunding Bonds.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1224.6 of the Revised Codes of Montana 1935, be, and the same is hereby amended to read as follows: Amending clause.

Section 1224.6. **Certain Bonds May Be Issued Without Holding an Election.** Bonds issued for the purpose of providing the necessary funds to pay indebtedness to another district or districts, and bonds issued for the purpose of providing necessary funds to pay and redeem outstanding bonds, issued prior to January 1, 1932, may be issued without submitting the question of doing so at an election. In order to issue bonds for such purposes, it shall only be necessary for the board of school trustees, at a regular, or duly called special meeting of the board, to pass and adopt a resolution setting forth the facts in regard to the indebtedness to be paid or the bonds to be refunded, showing the reasons for issuing new bonds and fixing and determining the details of such new bonds, and then to give notice of the sale of such new bonds in the same manner that notice is required to be given of the sale of bonds authorized at a school election, provided, however, that refunding bonds issued to pay and redeem bonds issued subsequent to March 1, 1924, shall not be issued for a longer time than the unexpired term of the bonds to be refunded; and provided further that all refunding bonds so issued in an amount exceeding ten thousand dollars ($10,000.00) shall be sold at open competitive bidding, written bids and sealed

Trustees of school districts may issue refunding bonds without election, when.

Procedure for.

Limitations on.

Sale of bonds.

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bids for the purchase of such bonds to be considered the same as open bids.

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 25, 1937.

CHAPTER 58

An Act to Amend Section 884 of the Revised Codes of Montana of 1935 by Adding a New Subsection Thereto to Be Numbered Subsection 12 Relating to the Duties of the Montana State Bureau of Mines and Geology, Providing for Field Examinations and Payment of Expenses Therefor.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 884 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Objects and duties of bureau.

"Section 884. **Objects and Duties of Bureau.** The bureau shall have for its object and duties the following:

Statistics.

1. To collect, to compile, and to publish statistics relative to Montana geology, mining, milling and metallurgy.

Samples, drawings, etc.

2. To collect typical geological and mineral specimens and samples of products; to collect photographs, models, and drawings of appliances used in the mines, mills and smelters of Montana.

Library.

3. To collect a library and a bibliography of literature pertaining to or useful for the progress of geology, mining, milling, and smelting in Montana.

Study of formations.

4. To study the geological formations of the state, with special reference to their economic mineral resources, both metallic and non-metallic.

Study of topography.

5. To examine the topography and physical features of the state with reference to their practical bearing upon the occupation of the people.

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Mining and milling operations.

6. To study the mining, milling, and smelting operations carried on in the state, with special reference to their improvement.

Publish bulletins.

7. To prepare and to publish bulletins and reports, with necessary illustrations and maps, which shall embrace both a general and a detailed description of the natural resources and geology, mines, mills and reduction plants of the state.

Examine rocks and samples.

8. To make qualitative examinations of rocks and mineral samples.

Scientific problems.

9. To consider such other scientific and economic problems as in the judgment of the state board of education are of value to the people of the state.

Give information.

10. To communicate special information on Montana geology, mining and metallurgy.

Cooperate with other state departments.

11. To cooperate with the other departments of the University of Montana, with the state mine inspector, and with other departments of the state government as may be mutually beneficial; and to cooperate with the United States geological survey and with the United States bureau of mines, in accordance with the regulations of those institutions.

Examine state lands when requested.

12. It shall also be the duty of the bureau of mines and geology, upon the request of the department of state lands and investments, to make examinations of state lands with regard to their geological formation and structure and as to all features relating to the character, extent and probable value of mineral deposits therein, including oil and gas; provided, however, that these services by the bureau shall be limited to the time that its personnel has available for such work in addition to its duties as defined in the preceding sections. Written reports shall be prepared of the examinations made.

Field examinations for other departments.

Subject to the same limitations and conditions as above enumerated, the bureau of mines and geology shall carry on field examinations for other branches and agencies of the government of the state.

Expense of examination.

Traveling expenses incurred by the examiner, including meals, lodging and incidental expenses, shall be paid by the department requesting the examination from available appropriations upon the presentation of claims in the ordinary form."

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Repealing clause.

Section 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 25, 1937.

CHAPTER 59

An Act Relating to the Proof of Records of Businesses, Professions, Occupations, or Institutions, and to Make Uniform the Law With Reference Thereto.

Be it enacted by the Legislative Assembly of the State of Montana:

"Business" defined.

Section 1. The term "business" shall include every kind of business, profession, occupation, calling or operation of institutions, whether carried on for profit or not.

Proof of business records.

Admission as evidence.

Section 2. A record of an act, condition or event, shall, in so far as relevant, be competent evidence if the custodian or other qualified witness testifies to its identity and the mode of its preparation, and if it was made in the regular course of business, at or near the time of the act, condition or event, and if, in the opinion of the court, the sources of information, method and time of preparation were such as to justify its admission.

Purpose of act.

Section 3. This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Name of act.

Section 4. This act may be cited as the Uniform Business Records as Evidence Act.

Repealing clause.

Section 5. All acts or parts of acts which are inconsistent with the provisions of this act are hereby repealed.

Section 6. This act shall be in full force and effect from and after its passage and approval.

Approved February 25, 1937.

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CHAPTER 60

An Act Relating to Judicial Notice of the Statutes of States, Territory, and Other Jurisdictions of the United States, and All Foreign Countries, and Providing for the Methods Whereby the Court Informs Itself Thereof, and to Make Uniform the Law in Relation Thereto.

Be it enacted by the Legislative Assembly of the State of Montana:

Judicial notice of laws of other states.

Section 1. Every court of this state shall take judicial notice of the common law and statutes of every state, territory and other jurisdiction of the United States.

Section 2. The court may inform itself of such laws in such manner as it may deem proper, and the court may call upon counsel to aid it in obtaining such information.

Question for court.

Section 3. The determination of such laws shall be made by the court and not by the jury, and shall be reviewable.

Notice to adverse party—when required.

Section 4. Any party may also present to the trial court any admissible evidence of such laws, but, to enable a party to offer evidence of the law in another jurisdiction or to ask that judicial notice be taken thereof, reasonable notice shall be given to the adverse parties either in the pleadings or otherwise.

Other foreign law, how proven.

Section 5. The law of a jurisdiction other than those referred to in Section 1 shall be an issue for the court, but shall not be subject to the foregoing provisions concerning judicial notice.

Purpose of act.

Section 6. This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Name of act.

Section 7. This act may be cited as the Uniform Judicial Notice of Foreign Law Act.

Repealing clause.

Section 8. All acts or parts of acts inconsistent with the provisions of this act, are hereby repealed.

Section 9. This act shall be in full force and effect from and after its passage and approval.

Approved February 25, 1937.

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CHAPTER 61

An Act Amending Section 587 of the Revised Codes of Montana, 1935, Relating to the Judges of Election, Appointment; Providing for Double Boards of Election Judges and Relating to Their Powers and Duties.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 587 of the Revised Codes of Montana, 1935, become, and the same is hereby amended to read as follows:

Judges of election, how appointed.

Section 587. **Judges of Election—How Appointed.** The board of county commissioners of the several counties at the regular session next preceding a general election, must appoint five judges of election for each precinct in which the voters therein, by the last registration, were

Number of

two hundred or more and three judges of election for each precinct in which such registration was less than two hundred, provided that in all election precincts in which there were cast three hundred and fifty or more ballots in the last general election or in which the board of county commissioners believe that as many ballots as three hundred and fifty will be cast in the next general election, the board of county commissioners may

Second or additional board of judges.

appoint a second or additional board consisting of five judges for each such precinct, who shall possess the same qualifications as the first board herein mentioned. The judges constituting the second board for each precinct, if such second board shall have been appointed,

Duties of respective boards of judges.

shall meet at their respective polling places, as designated in the order appointing them, at the time the polls are closed and at said hour or as soon as the first board has completed their duties in regard to the voting, the second board shall take charge of the ballot boxes containing the ballots and shall proceed to count and tabulate the ballots cast as they shall find them deposited

Procedure for alternating duties of boards.

in the ballot boxes. In the event that the count is not completed by eight o'clock A. M. of the next following day, the first board shall reconvene and relieve the second board and continue said count until eight o'clock P. M., when if the count is not yet completed, the second board shall reconvene and again relieve the first board, and so, alternately until said boards shall have fully completed the count and certified the returns. The judges constituting the several boards shall number the

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ballots and count the tallies upon the tally sheets and so indicate upon the tally sheets as to distinctly show the work of each board separately. The board completing the count shall make such certification of returns as is required by law.

Tally shall indicate work of each board.

Section 2. That all acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. That this act shall be in full force and effect from and after its passage and approval.

Approved February 25, 1937.

CHAPTER 62

An Act to Amend Section 1741.9 of the Revised Codes of the State of Montana of 1935, Relating to Arrest by Highway Patrolmen and Empowering Therein Patrolmen to Stop Motor Vehicles Transporting Livestock or Livestock Products and Take Possession of the Same Whenever They Have Good Reason to Believe Such Are Stolen.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1741.9 of the Revised Codes of the State of Montana of 1935, be, and the same is hereby amended to read as follows:

Amending clause.

Section 1741.9. **When Arrest by Patrolmen Allowed; Forbidden to Act in Labor Disputes or Congregate to Preserve Peace in One County; Empowered to Stop Vehicles Transporting Livestock and Livestock Products.** In addition to the above mentioned duties the highway patrol supervisor and all patrolmen are authorized under this act to make arrests for the following offenses committed in their presence or when requested by any peace officer.

When highway patrolmen shall act.

The crimes of murder, assault with a deadly weapon, arson, burglary, larceny, kidnaping, illegal transportation of narcotics or violation of the Dyer act regarding the transportation of stolen automobiles, and shall be deemed police officers in making arrest in all offenses occurring on the highways of the state; provided that such highway patrolmen shall have no authority and

Arrests for particular offenses.

Not to act in labor disputes, etc.

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are expressly forbidden to make arrests in labor disputes or in preventing violence in connection with strikes, and shall not be permitted to perform any duties whatsoever in connection with labor disputes, strikes or boycotts, and shall not be permitted to congregate or act as a unit in one county to suppress riots or preserve the peace.

May stop trucks carrying livestock.

The patrolmen are also hereby empowered to stop any truck or motor vehicle in which livestock or livestock products are being transported and ascertain whether the driver of such truck or vehicle is rightfully in possession of such livestock or livestock products; and whenever the patrolmen have good reason to believe that such livestock or livestock products have been stolen, they are empowered to take possession of the same until such livestock or livestock products can be delivered into the custody of the sheriff or until such time as the facts, as to the actual ownership can be ascertained.

Procedure where stock believed to be stolen.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 25, 1937.

CHAPTER 63

An Act to Amend Section 2215.9 of the Revised Codes of Montana, 1935, Relating to the Effect of Tax Deeds.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 2215.9 of the Revised Codes of Montana be, and the same is hereby amended to read as follows:

Force and effect of tax deeds.

Section 2215.9. **Effect of Deed.** The deed hereafter issued under this or any other law of this state shall convey to the grantee the absolute title to the lands described therein as of the date of the expiration of the period for redemption, free of all encumbrances and clear of any and all claims of said defendants to said action except the lien for taxes which may have at-

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tached subsequent to the sale and the lien of any special, local improvement, irrigation and drainage assessments levied against the property payable after the execution of said deed, and except when the land is owned by the United States or this state, in which case it is prima facie evidence of the right of possession accrued as of the date of expiration of such period for redemption.

Repealing clause.

Section 2. That all acts and parts of acts in conflict herewith are hereby repealed.

Section 3. That this act shall be in full force and effect from and after its passage and approval.

Approved February 25, 1937.

CHAPTER 64

An Act for the Cooperation With the State of Wyoming in Water Right Matters and Providing Such Appropriations of Water Be Subject to Reciprocal Legislation of Such State of Wyoming and Repealing all Laws in Conflict With the Provisions of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Appropriation of water in Montana streams by state of Wyoming.

Section 1. Appropriations of water for beneficial use in the State of Montana may be made, by the State of Wyoming to which it is desired to divert such water, when and only after such state shall have enacted legislation generally similar in purport to the provisions of this act, whereby water may be appropriated within the State of Wyoming for use within the State of Montana. Such appropriations shall be valid only when the state water conservation board shall have issued a certificate of appropriation that the waters appropriated have been or will be used for a beneficial purpose as set forth in the certificate; such certificate shall be filed with and be made a part of such appropriation of water. The state water conservation board is empowered and authorized by and through the state engineer or other authorized agent to cooperate with the state engineer of the State of Wyoming, in the determination, supervision and control of all water and water appropriations on all interstate streams; and to these ends the state water conservation board, by and with the consent of

Approval of water conservation board.

Power of water conservation board in connection with this act.

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the governor may enter into the necessary agreements with the state engineer or other agency in control of such subject, to carry out the purposes of this act; provided, that such agreements are not in conflict with the provisions of the reclamation or irrigation law now in force in this State; provided further that such authority shall not be exercised by the state water conservation board or the state engineer until after the State of Wyoming has passed a law granting like authority to that herein granted.

Limitation on.

Wyoming to grant like authority to effectuate.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved February 25, 1937.

CHAPTER 65

An Act Amending Section 5736 of the Revised Codes of Montana, 1935, Relating to the Causes for Divorce; and Amending Section 5736 of the Revised Codes of Montana, 1935, by Adding Thereafter a Section to Be Known as 5736.1 Relating to Incurable Insanity; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 5736 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Grounds for divorce and separate maintenance.

Section 5736. **Causes for Divorce.** Absolute divorces, or separations from bed and board, or decrees for separate maintenance, may be granted for any of the following causes:

1. Incurable insanity;
2. Adultery;
3. Extreme cruelty;
4. Wilful desertion;
5. Wilful neglect;
6. Habitual intemperance;

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7. Conviction of felony.

Amending clause 5736.1 added.

Section 2. That section 5736 be amended by adding thereto a section to be known as 5736.1.

Incurable insanity.

Section 5736.1. **Incurable Insanity.** Incurable insanity may be established on the testimony of competent physicians that such person is beyond medical and surgical remedy, providing, however, that no divorce shall be granted on the grounds of incurable insanity unless such insane person has been regularly confined in a state institution for insane persons for at least five years next preceding the commencement of the action for divorce. In granting a divorce upon this ground, notice of the pendency of the action shall be served in such manner as the court may direct upon the nearest blood relative and guardian of any such insane person, and the superintendent of the institution in which he or she is confined. Such relative or guardian and superintendent of the institution and such insane person shall be entitled to appear and be heard upon any and all issues. The status of the parties as to the support and maintenance of such insane person shall not be altered in any way by the granting of the divorce.

When grounds for divorce.

Notice required.

Parties to proceedings.

Repealing clause.

Section 3. That all acts and parts of acts in conflict herewith are hereby repealed.

Section 4. That this act shall be in full force and effect from and after its passage and approval.

Approved February 25, 1937.

CHAPTER 66

An Act to Amend Section 5653 of the Revised Codes of Montana of 1935, Relating to Preference of Soldiers and Sailors in Public Employment.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 5653 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Soldiers and sailors to be preferred for employment on public works.

"Section 5653. **Preference of Soldiers and Sailors in Public Employment.** In every public department, and upon all public works of the State of Montana, and of

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any county and city thereof, honorably discharged Union soldiers and sailors and their widows of the Civil war, the Spanish-American war, the Philippine insurrection, and of the late war with Germany and her allies, and any disabled civilian recommended by the state rehabilitation bureau, shall be preferred for appointment and employment; age, loss of limb or other physical impairment, which does not in fact incapacitate, shall not be deemed to disqualify them, provided they possess the business capacity, competency and education to discharge the duties of the position involved, and honorably discharged Union soldiers and sailors and their widows of the Civil war, the Spanish-American war, the Philippine insurrection, and the late war with Germany and her allies, who have disabilities admitted by the veterans' administration of the United States to have been incurred in the service in any of said wars, where said disabilities do not interfere with the employment, said disabled veterans shall be given preference before the employment of able-bodied veterans as herein designated; provided, however, that none of the benefits of this act shall accrue to any person who refused to serve on active duty in the military service to which attached, or to take up arms in the defense of the United States; provided, however, that no person, not a citizen of the United States, shall be employed by any state, city or county officer in any capacity if competent American labor is available; and, provided, further, that no person who has not been a resident of Montana for at least one (1) year immediately preceding an appointment shall be entitled to such preference; provided further, that for city or county employment no preference will be granted unless applicant under this act is also a resident of the city or town or county in which employment is sought. That any person entitled to preference in this section who has applied for any appointment or employment upon public works of the State of Montana or of any county and city thereof, or in any public department of said State and who has been denied said employment or appointment and feels that the spirit of this act has been violated and that he is in fact qualified physically, mentally and possesses business capacity, competency and education to discharge the duties of the position applied for, shall have the right to petition by verified petition the district court of the State of Montana in the county in which the work is to be performed, setting forth the

Disabled veterans to be employed, when.

Persons excluded from benefits.

Preference of citizens over foreigners.

Residence requirement.

Residence in city or county.

Remedy for persons aggrieved.

Petition to district court.

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facts of his application, qualifications, competency and his honorable discharge or other qualifications warranting him to preference under this act, and upon the filing of such petition any judge in said court shall forthwith issue an order to show cause to the appointing authority directing said appointing authority to appear in said court at a specified time and place, not less than five (5) nor more than ten (10) days after the filing of said verified petition, to show cause, if any he has, why said veteran or person entitled to preference should not be employed by him and that said district court shall have jurisdiction upon the proper showing to issue its order directing and ordering said appointing authority to comply with this law in giving the preference herein provided."

Order to show cause to be issued.

Order of court to compel compliance.

Section 2. If any section, sentence, clause or phrase of this act is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this act. The legislative assembly of the State of Montana hereby declares that it would have passed this act irrespective of the fact that any one or more sections, sentences, clauses, or phrases may be declared unconstitutional or invalid.

Saving clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved February 26, 1937.

CHAPTER 67

An Act to Amend Section 2952 of the Revised Codes of Montana of 1935, Relating to Workmen's Compensation.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 2952 of the Revised Codes of Montana 1935, be and the same are hereby amended to read as follows:

Amending clause.

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Industrial accident board to have continuing jurisdiction over its orders.

"2952. **Jurisdiction to Rescind or Amend Any Order, Decision, Award, etc.** The board shall have continuing jurisdiction over all its orders, decisions, and awards, and may, at any time, upon notice, and after opportunity to be heard is given to the parties in interest, rescind, alter, or amend any such order, decision, or award made by it upon good cause appearing therefor. Provided, that the board shall not have power to rescind, alter, or amend any final settlement or award of compensation more than four (4) years after the same has been made, and provided further that the board shall not have the power to rescind, alter or amend any order approving a full and final compromise settlement of compensation. Any order, decision, or award rescinding, altering, or amending a prior order, decision, or award, shall have the same effect as original orders or awards."

Right to alter or amend.

Limitation on.

Effect of amended order.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Section 3. This act shall take effect and be in full force after its passage and approval.

Approved February 26, 1937.

CHAPTER 68

An Act Relating to the Production and Sale of Dairy Products, Amending Sections 2620.4, 2620.20, 2620.34 and 2620.49, Revised Codes of Montana 1935, Defining Dairy Products, Making It Unlawful to Manufacture, Sell or Offer for Sale Butter or Other Dairy Products Containing a Less Quantity of Butterfat or Other Ingredient Than Herein Required, Location and Construction of Creameries, Cheese Factories, Ice Cream Factories and Ice Cream Mix Factories, Requiring the Name of Wholesaler or Manufacturer on Butter Packages or Cartons, and Defining Pasteurization; and Adding Three New Sections to the Revised Codes of Montana, 1935, to Be Designated Respectively as Sections 2620.70, 2620.71 and 2620.72 Prescribing Regulations Governing the Manufacture and Sale of Butter, for Wholesale Butter and Cheese Dealers' License, and for Condemnation of Unfit Milk and Cream Containers; and Repealing All Laws in Conflict Herewith.

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Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 2620.4 of the Revised Codes of Montana 1935, be, and the same is hereby amended to read as follows:

Definitions.

"Section 2620.4. **Definitions of Terms.** For the purpose of this act, the following definitions are hereby adopted:

Butter.

Butter is the clean, non-rancid product made by gathering in any manner, the fat of fresh ripened milk or cream into a mass which also contains a small portion of the other milk constituents, with or without salt, and must contain not less than eighty per centum of milk fat. No tolerance for any deficiency in milk fat shall be permitted. Butter may also contain added coloring matter.

Renovated butter.

Renovated butter or process butter is the product made by melting and reworking, without the addition or use of chemicals or any substances except whole milk, cream or salt, and must contain not less than eighty per centum of milk fat.

Cheese.

Cheese is the sound, solid, and ripened product made from milk or cream by coagulating the casein thereof with rennet or lactic acid, with or without the addition of ripening ferments and seasoning, and must contain in the water free substance, not less than fifty per centum of milk fat, and not more than thirty-nine per centum of moisture. Cheese may also contain added coloring matter.

Skimmed milk cheese.

Skimmed milk cheese is the sound, solid and ripened product made from skim milk by coagulating the casein thereof with rennet or lactic acid, with or without the addition of ripening ferments and seasoning.

Ice cream.

Ice cream is a frozen product made with pure, sweet milk, cream, skim milk, evaporated or condensed milk, evaporated or condensed skim milk, dry milk, dry skim milk, pure milk fat, or wholesome sweet butter, or any combination of any such products, with or without sweetening, clean wholesome eggs or egg products, and with or without the use of harmless flavoring and coloring. Ice cream must contain not less than ten per centum of milk fat, and not less than thirty-three per centum total solids, and may or may not contain pure and harm-

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less edible stabilizer. Ice cream may contain not to exceed one per centum gelatine. No frozen milk or milk product shall be manufactured or sold unless it contains at least ten per centum butterfat, excepting sherbets and ices and other exceptions shown in this same section. All ice cream must be manufactured from pasteurized ice cream mix.

Fruit ice cream.

Fruit ice cream shall conform to the requirements of ice cream, except that the fruit ingredients must be from sound, clean and mature fruit, and it must contain not less than nine per centum of milk fat.

French ice cream.

French ice cream, French custard ice cream, cooked ice cream, ice custard, parfaits and all similar frozen products, excepting sherbets and water ices, are varieties of ice cream.

Ice cream mix.

Ice cream mix is a pasteurized, unfrozen product used in the manufacture of ice cream and must comply with all the requirements for ice cream as set forth herein.

Milk sherbet.

Milk sherbet means the pure, clean, frozen product made from milk product, water and sugar, with harmless fruit or fruit juice flavoring and with or without harmless coloring, which must contain not less than 0.35 of one per centum of acid, as determined by titrating with standard alkali and expressed as lactic acid, and with or without added stabilizer composed of wholesome edible material. It must contain not less than four per centum by weight of solids.

Ice sherbet.

Ice or ice sherbet means the pure, clean, frozen product made from water and sugar with harmless fruit or fruit juice flavoring, and with or without harmless coloring, and must not contain less than 0.35 of one per centum of acid, as determined by titrating with standard alkali and expressed as lactic acid, and with or without added stabilizer composed of wholesome edible material. It must contain no milk solids.

Creamery.

Creamery. A creamery is a place where the milk or cream furnished by three or more persons is used for the manufacture into butter for commercial purposes.

Cheese factory.

Cheese factory. A cheese factory is a place where milk furnished by three or more persons is made into cheese for commercial purposes.

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Ice cream factory. An ice cream factory is a place where ice cream mix is frozen into ice cream for commercial purposes. Ice cream factory.

Ice cream mix factory. An ice cream mix factory is any place where ice cream mix is made. Ice cream mix factory.

Milk or cream buying or collecting station. A milk or cream buying or collecting station is any place where milk or cream is bought or collected for shipment or delivery to a creamery or to any person intending to make use of the same for commercial purposes. Milk buying station.

Person. The term "person" as used herein shall include all persons, whether natural or artificial, including firms, co-partnerships, corporations and marketing associations of every description. Person.

Department. The term "department" as hereinafter used shall, unless otherwise indicated, refer to the department of agriculture, labor and industry of the State of Montana. Department.

It shall be unlawful for any person, firm or corporation by himself, his or its servant or agent, to manufacture, sell, expose or offer for sale or exchange any butter or other substance or commodity defined in this act containing a less quantity of butterfat or other ingredient than herein required. Any such violator shall be deemed guilty of a misdemeanor and shall be punished according to the provisions of Section 2620.60 of this act." All commodities named must contain ingredients provided by this act. Penalty for failure.

Section 2. That Section 2620.20 of the Revised Codes of Montana 1935, be, and the same is hereby amended to read as follows: Amending clause.

"Section 2620.20. **Location and Construction of Creameries, Cheese Factories, Ice Cream Factories and Ice Cream Mix Factories.** The location and construction of creameries, cheese factories and ice cream mix factories shall be subject to the following regulations: Location of creameries or cheese factories.

(a) They shall not be located within 200 feet of any hog pen or corral. Proximity to corrals.

(b) The buildings and equipment of all creameries, cheese factories, ice cream factories and ice cream mix factories must be of such character that the dairy products manufactured or kept therein shall be preserved in first class, sanitary condition. Sanitary conditions required.

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Meat or other products not to be stored with dairy products.

(c) Meat or other products must not be stored in the same room or cabinet with dairy products if it can be shown that any of the dairy products kept in such room or cabinet are contaminated by the inclusion of any other product in same room or cabinet.

Steam boiler required.

(d) Creameries, cheese factories and ice cream mix factories shall be equipped with a steam boiler large enough to furnish sufficient steam and boiling water to thoroughly wash and sterilize all equipment and utensils and to thoroughly pasteurize all milk and milk products.

Hot water and steam.

(e) All ice cream factories shall have available sufficient steam or hot water to thoroughly wash and sterilize all equipment and utensils.

Concrete floors required.

(f) The floors of the part of the factories where butter, cheese or ice cream mix are manufactured and stored must be of concrete and so constructed that they can be thoroughly washed and drained.

Floors, walls, ceilings, etc., of ice cream factories.

(g) The floors of the part of the factories where ice cream is manufactured or stored must be water-proof and of a material that can be thoroughly washed and cleaned; the walls and ceilings of such room shall be of a suitable impervious material which shall be smooth and tight, clean and cleanable; the ceiling of such room shall not be less than eight feet from floor. The ice cream freezing equipment shall be installed in such a way that it shall not be subject to undue contamination by dirt, dust, flies or handling by customers; such room shall not be used as a place of habitation or as sleeping quarters.

Can washer or sink required.

Specifications.

(h) All butter, cheese, ice cream mix and ice cream factories must be equipped with a can washer or double compartment sink and must be connected with the sewer or pipe which will convey the waste water under ground to a point not less than fifty feet from the building.

Ice cream equipment in stores.

(i) Whenever ice cream freezing equipment is installed in a room which is a drug, confectionery or other food or drink establishment, to which the public has access, such equipment shall be installed in a sanitary manner to be approved by the commissioner of agriculture or his agents and thereafter shall be kept and maintained in a sanitary condition.

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(j) All butter, cheese, ice cream and ice cream mix factories must be well ventilated and must be provided with windows containing at least ten square feet of glass for each one hundred feet of floor space, or other approved lighting system. Between May 1st and November 1st of each year screen doors shall be provided and used on all outside doorways. During said time screens shall be provided and used on all open windows." Ventilation and lighting of factories. Screens for doors and windows.

Section 3. That Section 2620.34 of the Revised Codes of Montana 1935 be, and the same is hereby amended to read as follows: Amending clause.

"Section 2620.34. **Names to Appear on Package.** All creamery butter sold, offered or exposed for sale at retail in the State of Montana, wherever manufactured, must be wrapped in parchment paper and must have the wholesalers or manufacturers name clearly printed in a conspicuous place on the outside of the package in which it is sold. On each pound package of butter so sold or offered for sale the words "16 ounces net weight" or "1 lb. net weight" shall appear." Wrapping and labelling of butter. Weight.

Section 4. That Section 2620.49 of the Revised Codes of Montana 1935 be, and the same is hereby amended to read as follows: Amending clause.

"Section 2620.49. **Pasteurization Defined.** The process of pasteurization, as applied to milk, skim milk, cream and other milk products is hereby defined to be a process for the elimination therefrom of organisms harmful to human beings, which process consist of; Pasteurization defined.

(a) Uniformly heating every particle of such milk, skim milk or cream, as the case may be, to the temperature of not less than 142 degrees Fahrenheit and of holding same at a temperature of 142 degrees Fahrenheit for a period of not less than thirty minutes or more than one hour, and immediately thereafter cooling same to a temperature of not above 50 degrees Fahrenheit providing that the cream is pasteurized to be used in the manufacture of cheese or culture milk, in such case the cooling temperature may be above that herein specified; Process for.

(b) Milk or the derivatives that are to be used in the manufacture of milk products and cream may be pasteurized by heating above 142 degrees Fahrenheit when every particle of which is uniformly heated and held at

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a temperature above 145 degrees Fahrenheit, the time for holding may be decreased from thirty minutes by one minute for each degree of temperature above 145 degrees Fahrenheit. If milk is repasteurized it must not be sold for market milk."

New section added.

Section 5. That a new section to be known as Section 2620.70 be added to the Revised Codes of Montana 1935 as follows:

Butter—what to contain.

"Section 2620.70. **Regulations for Sale of Butter.** Any product manufactured, sold, offered or exposed for sale as butter shall contain not less than 80% milk fat, no tolerance for deficiency being allowed."

New section added.

Section 6. That a new section to be known as Section 2620.71 be added to the Revised Codes of Montana 1935 as follows:

License to wholesale butter or cheese.

"Section 2620.71. **Wholesale Butter and Cheese Dealers' License.** It shall hereafter be unlawful for any person, firm or corporation, by himself, his or its servant or agent, to sell, exchange or offer for sale at wholesale or have in his or its possession with intent to sell or offer for sale or exchange at wholesale any butter or cheese without first securing a license from the department of agriculture, labor and industry of the State of Montana to conduct such sale or exchange. The fee for such license shall be $20.00. Those creameries already having a license from said department permitting them to manufacture butter or cheese shall be exempted from this license. Whenever any person, firm or corporation by himself, his or its servant or agent, or as the agent or servant of another, conduct such sale or exchange in more than one place of business, a separate license shall be obtained for each place of business and a separate fee shall be charged for such license. All wholesalers or jobbers handling butter or cheese shall conduct their business under the same regulations of cleanliness, sanitation and refrigeration as prescribed for dairy manufacturing plants."

Fee for.

Separate license for each place of business.

Sanitary requirements.

New section added.

Section 7. That a new section to be known as Section 2620.72 be added to the Revised Codes of Montana 1935 as follows:

"Section 2620.72. **Condemnation of Unfit Containers of Milk and Cream.** The commissioner of agriculture

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or his agents are authorized to condemn any container of milk or cream that is rusty or unfit for use for such purpose. Any container found unfit for use as a container for milk or cream shall be condemned and marked for identification by the commissioner of agriculture or his agents. Should the container be used for milk and cream after being so condemned, it shall be destroyed." Condemnation of milk and cream containers.

Section 8. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 9. This act shall be in full force and effect from and after its passage and approval.

Section 10. If any section or part of this act shall be held to be unconstitutional, such decision shall not effect the validity of any other provisions of this act. Saving clause.

Approved February 27, 1937.

CHAPTER 69

An Act to Authorize the State Water Conservation Board to Construct Irrigation Works Across Streams of Water, Watercourse, Streets, Avenues, Highways, Railways, Canals, Ditches or Flumes.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The state water conservation board of the State of Montana shall have the power to construct irrigation works across any stream of water, watercourse, streets, avenues, highways, railways, canals, ditches or flumes which the route of said canal or canals may intersect or cross, in such manner as to afford security to life and property; but the board shall restore the same, when so crossed or intersected, to its former state, as near as may be, so as not to destroy its usefulness; and every company whose railroads shall be intersected or crossed by said works shall unite with said board in forming said intersection and crossing; and if such railroad company and said board, or the owners and controllers of said property, thing, or franchise so to be crossed cannot agree upon the amount to be paid therefor, or the points or the manner of said crossing or intersections, the same shall be ascertained and de- Water conservation board may construct irrigation works across streams, streets, highways, railways, etc. Duty to restore to former condition. Railroad company to co-operate, when. Disagreement between railroad company and board.

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How settled.

termined in all respects as herein provided in respect to taking of land for public use.

Right of way given to cross any public highway or state lands.

But nothing herein contained shall require the payment to the state or any subdivision thereof, of any sum for the right to cross any public highway with any such works. The right-of-way is hereby given, dedicated, and set apart to locate, construct, and maintain said works over and through any of the lands which are now or hereafter may be the property of this state.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved March 1, 1937.

CHAPTER 70

An Act to Permit Real Property to Be Redeemed From Tax Sale by Paying the Original Tax, Provided Such Original Taxes Be Paid on or Before December First, 1938, and Relating to the Time of Taking Tax Deed.

Be it enacted by the Legislative Assembly of the State of Montana:

Redemption of real property sold to county for taxes by payment of original tax only.

Section 1. That from and after the passage and approval of this act, any person having an equitable or legal interest in real estate heretofore sold for taxes to any county or which has been struck off to such county when the property was offered for sale and no assignment of the certificate of such sale has been made by the county commissioners of the county making such sale, or on which taxes are delinquent for the first installment of the year 1936, shall be permitted to redeem the same by paying the original tax due thereon, and without the payment of any penalty or interest thereon. Such

Must redeem before December 1st, 1938.

redemption of real estate must be made on or before the first day of December, 1938, and if such redemption is not made by the first day of December, 1938, then redemption can only be made by payment of the original tax with accrued interest, penalties and costs as now provided by law. This act shall not apply to the purchaser of any certificate of sale made prior to the passage and approval of this act.

Certificates of sale heretofore issued not affected.

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Publication of notice by county and city treasurers.

Section 2. County treasurers and city treasurers in their respective counties and cities shall cause to be published in at least one issue of the official newspaper of such county or city a notice of such right of redemption and extension of time, such notice to be published within sixty days from the approval of this act. It shall be the duty of the county treasurer of each county to mail notice to delinquent taxpayers, to their last known address, advising them of their rights and the amount of delinquent taxes under the provisions of this chapter within sixty (60) days after the approval of this act.

Mailing notice to delinquent taxpayers.

No assignments of tax sales until December 1st, 1938.

Section 3. County and city treasurers shall not make assignments of tax sales until after the first day of December, 1938.

Saving clause.

Section 4. If any section, sub-section, sentence, clause, or phrase of this act is for any reason held unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislative assembly declares that it would have passed this act and each section, sub-section, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, sub-section, sentence, clause, or phrase be declared unconstitutional, the same being necessary to the welfare of the State of Montana and the political subdivisions thereof by reason of the existence of an extraordinary emergency.

Emergency existing.

Section 5. This act shall be in full force and effect from and after its passage and approval.

Operation of certain other laws stayed until December 1st, 1938.

Section 6. This act stays the operation of all acts and parts of acts in conflict herewith until the first day of December, 1938, but does not otherwise affect such acts or parts of acts.

Approved March 1, 1937.

CHAPTER 71

An Act to Amend Section 3633.4 Revised Codes of Montana 1935, Relating to Grades of Potatoes and Adding a New Subdivision Thereto, to Be Lettered (F).

Be it enacted by the Legislative Assembly of the State of Montana:

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Section 1. That Section 3633.4 of the Revised Codes of the State of Montana 1935 be amended to read as follows:

Section 3633.4. (a) It shall be unlawful for any person, firm, association, organization, corporation or their agents or representatives or assistant of any person, firm, association, organization or corporation to pack for sale, expose for sale, or sell, transport, deliver or consign, or have in possession for sale, transport, delivery or consignment in interstate or intrastate commerce, farm products prepared for market which are not graded and branded to meet the requirements of the grade declared. The grade declared shall conform to the provisions of this act.

Farm products for market must be graded and branded.

Grade requirements.

(b) Provided that farm products not conforming to established grades may be sold if labeled, tagged or branded in the same manner as graded products, except that in place of specifying the grade, the word "culls" or "unclassified" shall be used.

"Culls" or "unclassified."

(c) Provided that all products branded "unclassified" must contain at least fifty per cent (50%) of products which would grade United States No. 2, or better.

Requirements for "unclassified."

(d) Provided further that farm products for seed purposes may be sold when graded under rules approved by the commissioner of agriculture and plainly labeled, tagged or branded "For Seed Purposes."

Products for seed purposes.

(e) Provided further that U. S. commercial grade shall not be a standard grade in the State of Montana.

U. S. Commercial not standard grade.

(f) That potatoes graded to contain one-half (50 per cent) that shall meet all the requirements of U. S. No. 1, and the remaining one-half that shall meet the size requirements of U. S. No. 1 and the quality requirements of U. S. No. 2 grade, may be classified and sold as Montana combination grade. This grade may not contain more than five per cent by weight, that are below the prescribed size, nor more than six per cent that are below the quality requirements of the U. S. No. 2 grade, nor more than one per cent affected by soft rot. Provided further, that none of the above named tolerances shall apply to the one-half that meet all the requiremens of U. S. grade No. 1, but shall apply only to the remaining half.

Montana combination grade, what to contain.

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Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 2, 1937.

CHAPTER 72

An Act Relating to Motor Vehicles, Trailers and Semitrailers, the Ownership Thereof and Other Interests Therein; Providing for the Registration Thereof and the Issuance of Certificate of Title and Certificate of Registration; Providing for the Assignment and Distribution of License Plates; Providing for the Licensing of Persons in the Business of Dealing in Motor Vehicles and Accessories; Providing for the Distribution of Registration Fees; Providing for the Time of Assessment and Assessment and Levy of Taxes on Motor Vehicles and Collection of Taxes Thereon, and Distribution of the Same, and to Harmonize Such Provisions With Existing Law Relating to Assessment of Personal Property; Providing for the Filing of Mortgages and Conditional Sales Contracts and the Filing of Releases Therefrom; Providing for the Enforcement of This Act, and Providing Penalties for the Violation Thereof; and to Amend Section 1759, Section 1759.4, Section 1759.2, Section 1759.3, Section 1758, Section 1758.2, Subdivisions A and B, Section 1758.3, Subdivision E, Section 1758.4, and Section 2002, Revised Codes, Montana, 1935, and Repealing Section 1755.4 and Section 1755.5 of the Revised Codes of Montana, 1935, (Originally Section 2, Chapter 171, Laws of the Twenty-first Legislative Assembly of Montana, 1929, Erroneously Numbered Section 1775.5, Revised Codes, Montana, 1935).

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1759, Revised Codes, Montana, 1935, shall be, and the same is hereby amended to read as follows: Amending clause.

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Application for registration or re-registration filed in office of county treasurer.

1759. **Application for Registration of Motor Vehicles and Payment of License Fees Thereon.** Every owner of a motor vehicle operated or driven upon the public highways of this state shall, for each motor vehicle owned, except as herein otherwise expressly provided, file, or cause to be filed, in the office of the county treasurer of the county wherein such motor vehicle is owned or taxable, an application for registration, or re-registration, upon blank form to be prepared and furnished by the registrar of motor vehicles, executed in duplicate, which application shall contain:

Blanks prepared and furnished by registrar of motor vehicles.

Application to contain name and address of owner where taxable.

(1) Name and address of owner, giving county, school district, and town or city within whose corporate limits the motor vehicle is taxable.

Conditional sales vendor, mortgagee or lienholder.

(2) Name and address of conditional sales vendor, mortgagee or holder of other lien against said motor vehicle, with statement of amount owing under such contract or lien.

Description of vehicle.

(3) Description of motor vehicle, including make, year model, engine and serial number, manufacturer's model or letter, weight, type of body and, if truck, the number of tons.

Re-registration license number.

(4) In case of re-registration, the license number for the preceding year.

Other information, when.

(5) Such other information as the registrar of motor vehicles may require.

Assessor to enter assessment on application before it is filed.

Before filing such application with the county treasurer, the applicant shall submit the same to the county assessor of said county and said county assessor shall enter on said application in a space to be provided for that purpose, the full and true and the assessed valuation of said automobile for the year for which said application for registration is made.

Payment of registration fee and taxes before application accepted.

The applicant shall, upon the filing of said application, (1) pay to the county treasurer the registration fee, as provided in Section 1760 Revised Codes of Montana, 1935, and shall also at such time (2) pay the taxes assessed against said motor vehicle for the current year of registration (unless the same shall have been theretofore paid for said year) before the application for registration or re-registration may be accepted by the county treasurer. The county treasurer is hereby em-

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County treasurer may investigate and require proof.

powered to make full and complete investigation of the tax status of said vehicle and any applicant for registration or re-registration must submit proof with respect thereto from the tax records of the proper county at the request of the county treasurer; provided, that nothing herein shall be deemed to conflict with the provisions of Section 1756.6 Revised Codes of Montana, 1935, and the provisions hereof shall be construed in connection therewith.

Sec. 1756.6 R. C. M. 1935 not changed by this act.

Taxes computed and entered on application by county treasurer.

The amount of taxes on said motor vehicle shall be computed and determined by the county treasurer on the basis of the levy of the year preceding the current year of application for registration or re-registration and such determination shall be entered on the application form in a space provided therefor.

Assessment date on motor vehicles.

Motor vehicles are hereby declared to be assessable for taxation as of and on the first day of January in each year irrespective of the time fixed by law for the assessment of other classes of personal property, and irrespective of whether or not the levy and tax may be a lien upon real property within the State of Montana, provided that in no event shall any motor vehicle be the subject of assessment, levy and taxation more than once in each year, viz., the first day in January in each year, which shall be the time of assessment for tax purposes of motor vehicles in stock, in dealers' possession or in dead storage, as well as in use, subsequent registrations, if any, of the same vehicle in the same year not being subject to payment of taxes.

Vehicles in stock or storage.

Car acquired after January 1st, not assessed.

The applicant for original registration of any wholly new and unused motor vehicle acquired by original contract after the first day in January of any year, and such vehicle shall not be subject to assessment and taxation for said vehicle until the first day in January of the year next succeeding, but nothing herein contained shall exempt such vehicle from taxation in the possession of any person on said assessment date.

Application to show taxes paid.

Upon accepting application for registration or re-registration of any motor vehicle which is subject to taxation in this state on January 1st in any year, and upon payment of taxes, the county treasurer shall stamp on said application: 'Taxes on this vehicle due January 1st of current year paid by applicant, prior applicant or owner and this vehicle is eligible for registration'.

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When vehicle not taxable in state on January 1st.

Upon accepting application for registration of any motor vehicle which was not subject to taxation in this state on January 1st in any year, the county treasurer shall indicate such fact by proper entry on said application.

Authority of registrar of motor vehicles.

The registrar of motor vehicles shall have authority to make proper entry on any certificate of title to any motor vehicle respecting payment of taxes in accord with the fact.

Amending clause.

Section 2. That Section 1759.4, Revised Codes, Montana, 1935, shall be, and the same is hereby amended to read as follows:

Dealers license.

1759.4. **Application for Dealer's License.** Every dealer in motor vehicles or automobile accessories shall cause to be filed, by mail or otherwise, in the office of the registrar of motor vehicles, a verified application for registration as a dealer on a blank to be furnished by the registrar of motor vehicles for that purpose, and containing the information therein required. Each application must be accompanied by the registration fee hereinafter named. Dealers registration must be renewed and paid for annually, and an application for re-registration must be filed not later than January first of each year. Upon the registration of a dealer, the registrar of motor vehicles shall assign to such dealer a distinctive serial registration number as a dealer and furnish every dealer in motor vehicles with not less than two (2) sets of number plates, and as many more as the fee the dealer pays entitles the dealer to, which number plates shall be similar to number plates furnished to owners of motor vehicles but shall bear thereon, in addition to the serial number assigned such dealer, the word "dealer" or the letter "D". A dealer is hereby prohibited from using or displaying dealer's license plates on any motor vehicle for any purpose other than the sale or demonstration for sale of a new or used car or truck or a service car used in direct connection with the business of a dealer. If it shall appear to the satisfaction of the registrar that any such dealer has used the dealer's license in a manner other than the one above set forth the registrar may revoke such dealer's license. Any dealer violating the provisions of this section shall be guilty of a misdemeanor and subject to a fine of not

Application to registrar with required fee.

Time when made.

Registration number and license plates.

Restriction on use of dealers license plates.

Penalty for violation.

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less than twenty-five ($25.00) dollars and not more than one hundred ($100.00) dollars.

Amending clause.

Section 3. That Section 1759.2, Revised Codes, Montana, 1935, shall be, and the same is hereby amended to read as follows:

County treasurer to issue receipt and assign license plates.

1759.2. **Issuance of Receipt and Assignment of Number Plates.** Upon receipt of application for registration and payment of license fee and taxes as herein provided, the county treasurer shall file one copy of said application in his office and issue to the applicant a receipt executed in triplicate, delivering one copy of said receipt to the applicant, one copy to the county clerk and recorder and retaining one copy for his office; and he shall daily forward to the registrar of motor vehicles a duplicate copy of all applications for registration. The county treasurer shall also, and at the same time, assign such motor vehicle a distinctive number, viz., the license plate number, and deliver to the applicant two (2) license plates, as received from the registrar of motor vehicles which shall bear such distinctive numbers. The registrar shall ship said license plates to the various county treasurers by freight, so that they will be received by the county treasurer on or before January first of each year. It shall not be necessary for the county treasurer, in said receipt, to segregate the amount of said taxes for state, county, school district and municipal purposes.

Procedure.

Registrar to ship license plates.

County treasurer to segregate taxes.

Amending clause.

Section 4. That Section 1759.3, Revised Codes, Montana, 1935, shall be, and the same is hereby amended to read as follows:

Taxes and license fees distributed by county treasurer.

1759.3. **Disposition of Taxes and License Fees Collected.** The county treasurer shall credit all taxes on motor vehicles so collected to a motor vehicle suspense fund and, at some time between March 1st and March 10th of each year, and every sixty days thereafter, the county treasurer shall distribute the same in relative proportions required by the levies for state, county, school district and municipal purposes in the same manner as other personal property taxes are distributed. All motor vehicle license fees collected by the county treasurer shall be credited to the motor vehicle license fund hereby established. The cost of making and delivering license plates and identification marks, certificates and all other expenses of operating the motor vehicle

Date when made.

Fees credited to motor vehicle license fund.

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Pro-rating costs and expenses by registrar.

department of the State of Montana shall be prorated by the registrar of motor vehicles among the several counties of the state in proportion to the number of cars registered in each county, and the registrar shall bill each county therefor by verified claim, and each county shall thereupon pay the amount so charged out of said motor vehicle license fund; provided, however, that each county shall receive credit for its pro-rata share of any fees or license money paid to the registrar of motor vehicles. The remainder in said motor vehicle license fund shall be transferred by the county treasurer at the end of each month to the road fund of said county and shall be used by the county for the purposes set forth in Section 1760.

Pro-rata credit of fees to counties.

Disposition of balance of motor vehicle license fund.

Amending clause.

Section 5. That Section 1758, Revised Codes, Montana, 1935, shall be, and the same is hereby amended to read as follows:

Record of registration and ownership kept by registrar.

1758. **Certificates of Registration and Ownership.** Upon receiving the duplicate of an application for registration, duly executed in proper form, the registrar of motor vehicles shall cause to be entered the information contained in said application upon the corresponding records in his office and shall furnish the applicant a certificate of registration. At the same time he shall issue to any conditional sales vendor or other person holding title to the vehicle or to the mortgagee thereof, a certificate of ownership. Both a certificate of registration and a certificate of ownership shall be issued to any applicant who is both the owner (registrant) and legal owner as defined by this act. Said certificates shall meet the following requirements as to form:

To issue certificates.

Persons entitled to certificates.

Form of certificates.

Registration number; date issued; owner, descriptions, liens.

(a) The certificate of registration and the certificate of ownership shall each contain upon the face thereof, (1) the date issued, (2) the registration number assigned to the owner and to the vehicle, (3) the name and complete address of the registrant and the legal owner, if not the same, (4) a description of the registered vehicle, including the year built, (5) any lien of the legal owner in the amount due at date of registration, and such other statement of facts as may be determined by the registrar.

Reverse side of certificate, form of.

(b) The reverse side of the certificate of ownership only shall contain forms of notice to the registrar of a

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transfer of the title or interest of the owner or legal owner and application for registration by the transferee, and such other statement on forms as may be determined by the registrar.

Amending clause.

Section 6. That Section 1758.2, Revised Codes, Montana, 1935, shall be, and the same is hereby amended to read as follows:

1758.2. **Transfer of Title or Interest.**

Transfer of title.

(a) Upon a transfer of the title or interest of a legal owner or owners in or to a vehicle registered under the provisions of this act as hereinbefore required, the person or persons whose title or interest is to be transferred and the transferee shall write their signatures with pen and ink upon the certificate of ownership issued for such vehicle, together with the address of the transferee, in the appropriate spaces provided upon the reverse of such certificate, and their signature must be acknowledged before a notary public.

Procedure and requirements.

Acknowledgment.

Ten days to file transfer certificate with registrar.

(b) Within ten (10) days thereafter, the transferee shall forward both the certificate of ownership so endorsed and the certificate of registration to the registrar, who shall file the same upon receipt thereof; and no certificate of title and certificate of registration shall be issued by the registrar of motor vehicles until the outstanding certificates are surrendered to that officer or their loss established to his reasonable satisfaction.

Surrender of outstanding certificates.

Vehicles transferred to dealers.

(c) The provisions of subdivision (b) of this section, requiring a transferee to forward the certificate of ownership after endorsement and the certificate of registration to the registrar, shall not apply in the event of the transfer of a vehicle to a dealer intending to resell such vehicle and who operates the same only for demonstration purposes, but every such transferee, shall upon transferring his interest or title to another, give notice of such transfer to the registrar and endorse the certificate of ownership as herein provided and deliver the certificate of ownership to the new legal owner and the certificate of registration to the new owner.

Notice to registrar.

Endorse and deliver certificate.

Registrar to register and issue new certificate, when.

(d) The registrar upon receipt of the certificate of ownership properly endorsed as required herein and the certificate of registration of such vehicle, shall register such vehicle as hereinbefore provided with reference to

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an original registration, and shall issue to the owner and legal owner entitled thereto, by reason of such transfer, a new certificate of registration and certificate of ownership respectively in the manner and form hereinbefore provided for original registration.

Transfer incomplete until new certificate issued.

(e) Until said registrar shall have issued said new certificate of registration and certificate of ownership as hereinbefore in subdivision (d) provided, delivery of such vehicle shall be deemed not to have been made and title thereto shall be deemed not to have passed and said intended transfer shall be deemed to be incomplete and not to be valid or effective for any purpose.

Transfer by operation of law.

(f) In the event of the transfer by operation of law of the title or interest of a legal owner or owner in and to a vehicle registered under the provisions of this act, as upon inheritance, devise or bequest, order in bankruptcy or insolvency, execution sale, repossession upon default in performance of the terms of a lease or executory sales contract, or otherwise than by the voluntary act of the person whose title or interest is so transferred, the executor, administrator, receiver, trustee, sheriff or other representatives or successor in interest, of the person whose title or interest as so transferred shall forward to the registrar of motor vehicles an application for registration in the form required for an original application for registration, together with a verified or certified statement of the transfer of such title or interest which statement shall set forth the reason for such involuntary transfer, the title or interest so transferred, the name or names of the person or persons whose title or interest is sought to be transferred, the name or names and addresses of the person or persons to who such title or interest is to be transferred, the process of procedure effecting such transfer and such other information as may be requested by the registrar and with such statement shall be furnished such evidence and instruments as may be otherwise required by law to effect a transfer of legal title to or an interest in chattels as may be required in such cases, and in the event the registrar shall be satisfied that such transfer is regular and that all formalities as required by law have been complied with, he shall cause to be sent to the owner and legal owner notice of such intended transfer and thereafter, but not less than five (5) days

Application for re-registration.

Verified statement.

What to contain.

Notice given by registrar to legal owner.

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thereafter, shall register such vehicle or effect the transfer of the registration thereof and shall issue a new certificate of registration and a new certificate of ownership to the person or persons entitled thereto. The notice herein required shall be deemed complied with by deposit in the post office in Deer Lodge, such notice, postage prepaid, addressed to such person or persons at their last known addresses.

New certificate when issued.

Notice—how given.

In the event of the death of an owner or legal owner of not more than one (1) motor vehicle, trailer or semi-trailer registered hereunder, and not exceeding the value of one thousand dollars ($1,000.00), without leaving other property necessitating the procuring of letters of administration or letters testamentary, then the surviving husband or wife or other heir, unless such property is by will otherwise bequeathed, may secure transfer of the registration of the title or interest of the deceased in and to such vehicle to the name of the surviving husband or wife or other heir, as above mentioned, upon filing with the registrar an affidavit of such person setting forth the fact of such survivorship and the names and addresses of any other heirs and such other facts as are hereby made necessary to entitle the affiant to a transfer, and thereupon the registrar is authorized to make such transfer of the registration of such vehicle.

Cases where on death of owner transfer may be made to heirs.

Affidavit required.

Nothing in the foregoing subdivision of this section shall prevent a legal owner from assigning his title or interest in or to a vehicle registered under the provisions of this act to another legal owner without the consent of and without affecting the interest of the holder of the certificate of registration thereof.

Owner may assign title or interest.

Effect of assignment.

Upon filing with the registrar of a certificate of ownership endorsed by the legal owner and a transferee of legal ownership, the registrar shall enter the name of the new legal owner upon the records of the department and shall issue a new certificate of ownership to the new legal owner and a new certificate of registration to the registered owner in the form hereinbefore provided for original registration.

Registrar to record transfer and issue new certificate.

(g) Every dealer, upon transferring any motor vehicle to any person other than a dealer shall immediately give written notice of such transfer to the registrar upon the official form provided by the registrar. Every such

Dealers to notify Registrar of transfers.

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Contents of notice.

notice shall contain the date of transfer, the names and addresses of the transferor and transferee and such description of the vehicle as may be called for in such official form.

Amending clause.

Section 7. That Section 1758.3, Revised Codes, Montana, 1935, shall be, and the same is hereby amended to read as follows:

Chattel mortgages and conditional sales contracts.

1758.3. **Chattel Mortgages and Conditional Sales Contracts on Motor Vehicles.**

Precedence over creditors or subsequent purchasers, when.

(a) No chattel mortgage or conditional sales contract on a motor vehicle shall be valid as against creditors or subsequent purchasers or encumbrancers until the mortgage or conditional sales vendor therein named is registered as the legal owner thereof as herein provided.

Filing of chattel mortgages and conditional sales contracts no longer required.

(b) A chattel mortgage on a motor vehicle is hereby excepted from the provisions of Sections 8278 and 8280 inclusive, and a conditional sales contract on a motor vehicle is hereby excepted from the provisions of Sections 7594 and 7596 inclusive, insofar as they relate to the filing of chattel mortgages and conditional sales contracts except the duration of said liens shall be and remain as specified in Section 8279.

Duration of lien.

(c) Whenever a mortgagee in a chattel mortgage deposits with the registrar of motor vehicles the original, or a copy of said mortgage accompanied by a certificate of a notary certifying to the same as a true and correct copy of the original, the said mortgagee shall be registered as the legal owner under the provisions of this act, or whenever a conditional sales vendor deposits with the registrar a conditional sales contract or a copy thereof accompanied by a certificate of a notary public certifying to the same as a true and correct copy of the original, the said conditional sales vendor shall be registered as the legal owner under the provisions of this act. Such registration and the depositing of said mortgage or conditional sales contract or a copy thereof shall be constructive notice of the said mortgage or contract and its contents to subsequent purchasers or encumbrancers. The conditional sales vendor and/or mortgagee shall have ten (10) days from and after execution of said conditional sales contract or mortgage within which to file said original or certified copies of said documents with the registrar of motor vehicles during which period the

Mortgagee registered as legal owner.

Conditional sales vendor registered as legal owner.

Constructive notice of mortgage or sales contract.

Must file with registrar within 10 days.

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rights secured thereby shall be prior and superior to the lien or claim of any subsequent purchaser or encumbrancer, and thereafter rights shall accrue as of the time of filing with the registrar as aforesaid.

After 10 days rights accrue as of date of filing.

(d) Upon default under a chattel mortgage covering a motor vehicle the mortgagee may foreclose his mortgage as in the case of other personal property, and upon default under a conditional sales contract covering a motor vehicle the vendor shall have the remedies prescribed by Section 7597 upon delivery to the sheriff of the original instrument or a copy certified by the registrar of motor vehicles, and in case of attachment of motor vehicles, all the provisions of Section 8283 shall be applicable except that deposits must be made with the registrar of motor vehicles instead of the county treasurer.

Rights and procedure in case of default.

Attachment.

(e) In the event any conditional sales vendor or assignee or chattel mortgagee or assignee fails to surrender certificate of ownership to the owner of motor vehicle within twenty (20) days after receiving final payment on conditional sales contract, assignment or mortgage, he shall be liable to pay said owner the sum of ten dollars ($10.00) and the further sum of one dollar ($1.00) for each and every day thereafter that he fails to surrender said certificate of ownership, recoverable in a civil action.

Liability of vendor or mortgagee for failure to surrender certificate after final payment made.

(f) In the event any conditional sales vendor or assignee, or chattel mortgagee or assignee fails to file a satisfaction of a chattel mortgage, assignment or conditional sales contract within 15 days after receiving final payment on such mortgage, assignment or conditional sales contract, he shall be required to pay to the registrar of motor vehicles the sum of one dollar for each and every day thereafter that he fails to file such satisfaction. All moneys paid to the registrar of motor vehicles under this section shall revert to the automobile theft fund.

Failure of vendor, mortgagee or assignee to file satisfaction.

Penalty.

Disposition of money received.

(g) Upon receipt of any liens, notice of liens, attachments, etc., against the record of any motor vehicle registered in this state, the registrar shall, within twenty-four (24) hours, mail to the legal owner, conditional vendor, mortgagee, or assignee of any thereof, and also to the registrant and assignee, a notice showing the name and address of the lien claimant, amount of the lien,

Duty of registrar to give notice of liens, attachments, etc.

Notice—what to contain.

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date of execution of lien and in the case of attachment the full title of the court and the action and the name of the attorneys for the plaintiff and/or attaching creditor.

Instruments now on file need not be refiled.

(h) It shall not be necessary to refile with the registrar of motor vehicles any instruments on file in the offices of the county clerks and recorders at the time this law takes effect.

Fees to regisrtar.

For filing satisfaction.

Filing mortgages, conditional sales contracts, assignments.

Certain certificates.

(i) A fee of twenty-five cents (25c) shall be paid to the registrar of motor vehicles for filing satisfaction of chattel mortgages or conditional sales contracts. A fee of fifty cents (50c) shall be paid the registrar of motor vehicles for filing chattel mortgages, conditional sales contracts or assignments thereof, and also for issuing certificate to copy of chattel mortgage or conditional sales contract.

Amending clause.

Section 8. That Section 1758.4, Revised Codes, Montana, 1935, shall be, and the same is hereby amended to read as follows:

Fee for original certificate of ownership.

Paid to county treasurer.

Remitted to registrar.

1758.4. **Fee for Original Certificate of Ownership and Transfer of Title.** A charge of one ($1.00) dollar shall be made for issuance of an original certificate of ownership of title which shall be collected by the county treasurer for the registrar of motor vehicles the first time any vehicle is registered by any owner. Said charge of one dollar ($1.00) shall be remitted to the registrar of motor vehicles by the county treasurer with each application for registration. Upon a transfer of registration by the owner, there shall be forwarded to the registrar of motor vehicles, the certificate of ownership or title and registration card, properly filled out and executed, together with a transfer fee of one dollar ($1.00).

Fee for transfer of registration.

Amending clause.

Section 9. That Section 2002, Revised Codes, Montana, 1935, shall be, and the same is hereby amended to read as follows:

Assessments, when to be made.

2002. **When Assessment to Be Made—Credits Must Be Assessed, How.** (1) The assessor must, between the first Monday of March and the second Monday of July in each year, ascertain the names of all taxable inhabitants, and assess all property in his county subject to taxation, except such as is required to be assessed by the state board of equalization, and must assess such property

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to the persons by whom it was owned or claimed, or in whose possession or control it was at twelve o'clock M. of the first Monday of March next preceding, except that such procedure shall not apply to motor vehicles which shall be assessed at the time fixed in (2) hereof; but no mistake in the name of the owner or supposed owner of real property renders the assessment thereof invalid. Credits must be assessed as provided in Section 1996, subdivision 6.

Not applicable to assessment of motor vehicles.

Credits.

(2) The assessor must ascertain and assess all motor vehicles in his county subject to taxation as of January 1st in each year, and the same shall be assessed to the persons by whom owned or claimed, or in whose possession or control such vehicle was at twelve o'clock M. of the first day of January in each year.

Motor vehicles. Time of assessment.

To whom assessed.

Nothing herein contained shall relieve the applicant for registration or re-registration of any motor vehicle so assessed or subject to assessment of the duty of paying taxes thereon as a condition precedent to registration or re-registration in the event said taxes have not been paid by any prior applicant or owner in all cases where required to be paid.

Applicant for registration to pay any unpaid taxes on vehicle.

Section 10. That Section 1755.4 and Section 1755.5 of the Revised Codes of Montana, 1935, originally enacted as Section 2, Chapter 171, Laws of the Twenty-first Legislative Assembly of the State of Montana, 1929, erroneously numbered Section 1775.5, Revised Codes, Montana, 1935, shall be, and the same are hereby expressly repealed.

Repealing clause.

Section 11. If any clause, sentence, subdivision, paragraph or Section of this act, or any thereof in combination are found unconstitutional, such result shall not affect or alter the remainder of this act or any part of the remainder and the same shall stand as valid, the legislative assembly hereby declaring that it would have enacted the remainder or residue not found unconstitutional.

Saving clause.

Section 12. All acts and parts of acts, statutes and codes in conflict with the provisions of this act and the amendments herein made, shall be, and the same are hereby expressly repealed.

Repealing clause.

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Section 13. This act shall be in full force and effect from and after December 1st, 1937.

Approved March 2, 1937.

CHAPTER 73

An Act to Amend Chapter 122, Session Laws of the Twenty-fourth Session Laws of Montana, 1935, Relating to an Emergency Act Relating to the Granting of Relief From Mortgage Foreclosure and From Execution Sales of Real Estate; Providing for Extending the Period of Redemption From Said Mortgage Foreclosures and Execution Sales, and Designating the Procedure to Obtain Such Relief and the Authority of Courts in Relation Thereto; Limiting the Right to Maintain Actions for Deficiency Judgments; Extending the Expiration of Certain Periods of Redemption, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Emergency declared.

Section 1. **Emergency Declared to Exist.** The legislature of the State of Montana hereby declares that a public economic emergency does exist in the State of Montana.

Extension of period of redemption from mortgage foreclosure.

Section 2. **Period of Redemption May Be Extended.** Where any mortgage upon real property has been foreclosed and the period of redemption has not yet expired, or where a sale is hereafter had, in the case of real estate mortgage foreclosure proceedings, now pending, or which may hereafter be instituted prior to the expiration of two years from and after the passage of this act, or upon the sale of any real property under any judgment or execution where the period of redemption has not yet expired, or where such sale is made hereafter within two years from and after the passage of this act, the period of redemption may be extended for such additional time as the court may deem just and equitable but in no event beyond March 1st, 1939.

Limited to cases arising in next two years.

Limitation on period of extension.

Persons who may invoke benefits of act.

Section 3. **Benefits of Act—How Invoked.** Any mortgagor or execution debtor or judgment debtor who is lawfully in possession of land or lands during the pendency of mortgage foreclosure proceedings, or at

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the time of sale of land under judgment or execution sale, may avail himself of the relief authorized by this act in the following manner: At any time prior to the expiration of the period of redemption now provided by the laws of Montana any such person may apply to the district court having jurisdiction of the matter, on not less than ten (10) days' written notice to the mortgagee or judgment creditor, which notice may be served on the attorney of record of either, for an order determining the reasonable value of the income of said property, or if it has no income, then the reasonable rental value of the property involved in such sale, and permitting the applicant for such relief, to pay all or a reasonable part of the income or rental value of said property, to be applied to the payment of taxes, insurance, interest or to the mortgage or judgment indebtedness, at such times and in such manner as shall be fixed and determined by the court, and to thereupon obtain an extension of the period of redemption in accordance with the terms of this act.

Procedure outlined.

Application to district court.

Notice required.

What to be determined by court.

Section 4. **Hearing and Order of Court.** The court shall thereupon hear said application and after taking testimony thereon, shall make and enter its order directing the payment by the applicant for relief under this act of such an amount at such times and in such manner as to the court shall, under all the circumstances of the case, appear just and equitable, to be applied as in this act provided. Such order to further contain such terms and conditions as to the care and operation of the mortgaged premises as to the court shall appear just and equitable.

Hearing and order by court.

Section 5. **Suspension of Period of Redemption.** Upon the filing of the application provided for in this act and the service of the notice of same as herein provided, the running of the period of redemption shall be tolled until the court shall make its order upon such application.

Suspension of period of redemption until order of court.

Section 6. **Effect of Default by Applicant.** If at any time after the making of the order of court aforesaid, any applicant for relief under the terms of this act shall make default in the payments or any of them specified in the court's order, or in performance of any of the terms and conditions of the court's order, or shall commit any waste upon the premises involved, such default or commission of waste shall constitute grounds for the

Default or waste by applicant after order of court.

Grounds for revocation of order after 30 days.

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revocation of said order and for the termination of the applicant's right to redeem said land. If such default or commission of waste shall continue for a period of thirty (30) days, the mortgagee, judgment creditor or other persons whose rights have been affected by such order, may upon not less than ten (10) days' notice to the applicant for relief under this act, apply to the district court for an order adjudging the applicant to have defaulted in the performance of the court's order and for the revocation of said order and the restriction of the right of redemption to the period theretofore provided by law. Said applicant shall be heard and determined by the court who shall thereupon make and enter such order thereon as in its judgment the circumstances of the case warrant.

Remedy available to mortgagee or judgment creditor.

Extending periods of redemption expiring within 30 days after this act in force.

Section 7. **Extension of Period of Redemption in Certain Cases.** The time of redemption from all real estate mortgage foreclosures and from all execution sales of land heretofore made, which would under existing laws expire in less than thirty (30) days after the effective date of this act, are hereby extended to a time thirty (30) days after the effective date of this act, and any person who is entitled to relief hereunder, may avail himself of the benefits of this act in relation to such foreclosure or execution sales at any time prior to the expiration of said thirty (30) day period.

Limit of extension.

Court may change terms of order on application of either party.

Section 8. **Court May Revise and Alter Terms.** Upon the application of either party prior to the expiration of the extended period of redemption as provided in this act and upon the presentation of evidence that the terms fixed by the court are no longer just and reasonable, the court may revise and alter said terms, in such manner as the changed circumstances and conditions may require.

No deficiency judgments in foreclosures prior to March 1, 1939.

Section 9. **Certain Deficiency Judgments Prohibited.** Until March 1, 1939, no deficiency judgment shall be entered or given in this state in any real estate mortgage foreclosure action now or hereafter pending in this state until the period of redemption now allowed by the laws of Montana or as extended under the provisions of this act, has expired.

Act applicable only to prior mortgages.

Section 10. **Application of Act.** This act as to mortgage foreclosures shall apply only to mortgages made prior to the passage and approval of this act but shall

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not apply to mortgages made prior to the passage of this act which shall hereafter be renewed or extended for a period ending more than one year after the passage of this act; neither shall this act apply in any way which would allow a resale, stay, postponement or extension to such time that any right might be adversely affected by a statute of limitations.

Effect of renewal or extension.

Effect on statutes of limitations.

Section 11. The provisions of this act shall not apply to any mortgage while such mortgage is held by the United states or by any agency, department, bureau, board, or commission thereof, as security or pledge of the maker, its successors, or assigns, nor shall the provisions of this act apply to any mortgage held as security or pledge to secure payment of a public debt or to secure payment of the deposit of public funds, nor shall the provisions of this act apply to any note or mortgage insured by the federal housing administrator.

Act not applicable to mortgages held by U. S. agencies.

Securing payment of public debts.

Section 12. All acts and parts of acts in conflict herewith are hereby repealed but nothing herein contained shall be construed as repealing Chapter 116, Acts of Twenty-third Legislative Assembly of Montana or any part thereof.

Repealing clause.

Chapter 116, laws 1933, not repealed.

Section 13. This act shall take effect and be in force from and after its passage and approval.

Approved March 3, 1937.

CHAPTER 74

An Act Requiring Persons Hunting Big Game Animals in This State to Wear Distinguishing Marks and Articles of Apparel; Prescribing in What Such Distinguishing Marks and Articles of Apparel Shall Consist; Providing That Violations of This Act Shall Be Misdemeanors and Fixing Penalties Therefor.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. It shall be unlawful for any person to hunt any of the big game animals in this state under any of the provisions of the laws of this state without such person wearing a cap or hat, shirt jacket, coat or sweater of a bright red color.

Big game hunters to wear red garment.

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Penalty.

Section 2. Any person convicted of a violation of any of the provisions of this act shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than two dollars and fifty cents ($2.50) or more than five dollars ($5.00).

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 3, 1937.

CHAPTER 75

An Act to Provide the Several Justices of the Peace With the Necessary Books, Blanks, Office Quarters and Supplies as Shall Be Deemed Necessary by the Board of County Commissioners.

Be it enacted by the Legislative Assembly of the State of Montana:

Counties to furnish supplies to justices of peace for criminal cases.

Section 1. The several boards of county commissioners shall furnish at the expense of their respective counties to all qualified and acting justices of the peace all necessary justice dockets, all blanks or forms required by the justices of the peace in the handling of criminal cases. In townships having a population of 1500 or more, according to the last previous United States census, the board of county commissioners may at their discretion, furnish such office quarters, furniture, fixtures and other supplies as they may deem necessary, provided, however, that the office quarters so furnished shall be located in the county court house, if possible.

When county commissioners may furnish office quarters, furniture, etc.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 3, 1937.

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CHAPTER 76

An Act Relating to the Bond of Guardianship and Providing the Manner in Which Letters of Guardianship May Issue Without Bond.

Be it enacted by the Legislative Assembly of the State of Montana:

Cases where bond not required for letters of guardianship.

Section 1. If, at the time of hearing any application for letters of guardianship, it satisfactorily appears to the court or judge that the assets of the estate for which such letters of guardianship are sought do not warrant the necessity of a bond on the part of the applicant, the court or judge may in its discretion order such letters to issue without bond; but such guardian may at any time afterward, if it appear from any cause necessary or proper, be required to file a bond as in other cases.

When bond required after letters issued.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 3, 1937.

CHAPTER 77

An Act to Amend Section 10204 of the Revised Codes of Montana 1935, Relating to the Sale of Personal Property in Probate Proceedings.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 10204 of the Revised Codes of Montana 1935, be, and the same is hereby, amended to read as follows:

Sale of personal property in probate proceedings.

Notice required.

Public sale where held.

Section 10204. The sale of personal property must be made at public auction, after public notice given for at least ten days by notices posted in three public places in the county, or by publication in a newspaper, or both, containing the time and place of sale, and a brief description of the property to be sold, unless for good reason shown the court, or a judge thereof, orders a private sale, or a shorter notice. Public sales of such property

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must be had at the courthouse door, or at the residence of the decedent, or at some other public place; but no sale shall be made of any personal property which is not present at the time of sale, and the sale must be for cash, unless the court or judge otherwise order. The sale of stocks and bonds, grains, or any other personal property, with the exception of livestock, having an established market, may be had at private sale, with or without notice in the discretion of the court or judge, and the executor or administrator shall be held accountable for the market value of such personal property at the time such sale was held.

How conducted.

Property that may be sold at private sale without notice.

Responsibility of executor or administrator.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 3, 1937.

CHAPTER 78

An Act to Amend Sections 5108.2 and 5108.7 of the Revised Codes of Montana for 1935, Relating to the Creation of Police Reserves of Police Officers in Cities and Towns of the First and Second Class in the State of Montana and the Qualification of Members Thereof, and Providing for the Tax Levy for the Payment of Said Police Reserves and Specifying the Limitations of Said Levies.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 5108.2, Revised Codes of Montana, 1935, be and the same is hereby amended to read as follows:

Police reserve for officers of cities of first and second class.

Service requirements.

"Section 5108.2. Whenever any person who has heretofore or shall hereafter have completed twenty (20) years or more in the aggregate, either as a probationary officer, a regular member of such police department, or as a special police officer of said police department, in any capacity or rank whatever in cities of the first and second class, provided that such police officer serving in the United States army or navy, in time of war

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or national emergency, shall be given credit upon his police record for such service in the same manner as though on active police duty for such time, he may at his option pass from the active list of police officers of such city or town and become a member of the police reserves of said city or town, and if he reaches the age of sixty-five (65) years while in active service, he shall pass from the active list of police officers of such city or town and become a member of the police reserves of such city or town."

Discretionary, when.

Mandatory, when.

Section 2. That Section 5108.7, Revised Codes of Montana, 1935, be, and the same is hereby, amended to read as follows:

Amending clause.

"Section 5108.7. For the purpose of paying the salaries of policemen who have been placed upon the reserve list of the cities of the first and second class, the city or town council, or commissioners, shall in the manner provided for by law, and at the time of the levy of the annual tax, levy such special tax of not to exceed one (1) mill on the dollar upon the assessed valuation of all taxable property within the limits of said city or town, which said tax shall be collected as other taxes and when so collected, shall be paid into the fund created for the payment of such salaries of police officers upon the reserve list."

Fund for payment of salaries of officers on reserve list.

Annual tax levy by city.

Limited to one mill.

Collection and disposal.

Section 3. If any clause, sentence, section, paragraph or part of this act shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid or inoperative, such judgment shall not affect, impair or invalidate the remainder of this act but shall be confined in its operation to the clause, sentence, section, paragraph or part directly adjudged to be invalid and inoperative.

Saving clause.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 5. This act shall be in full force and effect from and after its passage and approval.

Approved March 3, 1937.

CHAPTER 79

An Act to Amend Section 5553.8 of the Revised Codes of Montana, 1935, Relating to the Distribution and

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Sale of the Revised Codes of Montana, 1935, by the Secretary of State, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 5553.8 of the Revised Codes of Montana, 1935, be and the same is hereby amended to read as follows:

Distribution of the revised codes of Montana, 1935.

Section 5553.8. The secretary of state, upon receipt of said published codes, shall distribute the same, or so many of them as may be necessary, in the following manner, to wit:

To each department of the state government of Montana, one copy.

Legislators to pay actual cost price.

To each member of the 24th and 25th legislative assemblies, one copy upon the payment to the State of Montana by any member receiving such copy the actual cost price thereof to the state.

To the state law library, two copies.

To the Library of Congress, two copies.

To the state historical and miscellaneous library, one copy.

To the state law librarian, for the purpose of exchanges with libraries, universities, and other institutions, such number of copies. not to exceed one hundred (100) as may be required by him.

To each of the component institutions of University of Montana, one copy.

To each of the United States district judges for the district of Montana, and to each of the judges of the supreme and district courts of Montana, one copy.

To the county clerk of each county, three copies for the use of the various county officials.

To each county attorney, and to each clerk of the district court, one copy.

Discretionary powers of secretary of state to distribute.

The secretary of the state may further distribute the Revised Codes of Montana, of 1935, at his discretion, to other departments of government not herein enumerated

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when the same are deemed absolutely necessary, and may exchange new sets for worn out sets when the latter are returned to his office.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 3, 1937.

CHAPTER 80

An Act Relating to Unfair Competition and Discrimination, Making Certain Unfair and Discriminatory Practices Unlawful, Defining the Duties of the Attorney General in Regard Thereto, Declaring Certain Contracts Illegal and Forbidding Recovery Thereon, Providing for Actions to Enjoin Unfair Competition and Discrimination and to Recover Damages Therefor, Making the Violation of the Provisions of This Act a Misdemeanor and Providing Penalties and Providing for Its Administration by the Montana Trade Commission.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. It shall be unlawful for any person, firm, or corporation, doing business in the State of Montana and engaged in the production, manufacture, distribution or sale of any commodity, or product, or service or output of a service trade, of general use or consumption, or the product or service of any public utility, with the intent to destroy the competition of any regular established dealer in such commodity, product or service, or to prevent the competition of any person, firm, private corporation, or municipal or other public corporation, who or which in good faith, intends and attempts to become such dealer, to discriminate between different sections, communities or cities or portions thereof, or between different locations in such sections, communities, cities or portions thereof in this state, by selling or furnishing such commodity, product or service at a lower rate in one section, community or city, or any portion thereof,

Price discriminations to destroy competition unlawful.

Distribution or sale of any commodity or service.

Discrimination defined.

Sectional and local.

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Allowance for different grade or quality and costs of transportation.

or in one location in such section, community, or city or any portion thereof, than in another after making allowance for difference, if any, in the grade or quality, quantity and in the actual cost of transportation from the point of production, if a raw product or commodity, or from the point of manufacture, if a manufactured product or commodity. This act shall not be construed to prohibit the meeting in good faith of a competitive rate, or to prevent a reasonable classification of service by public utilities for the purpose of establishing rates. The inhibition hereof against locality discrimination shall embrace any scheme of special rebates, collateral contracts or any device of any nature whereby such discrimination is, in substance or fact, effected in violation of the spirit and intent of this act.

May meet competition.

Classifying service.

Rebates and indirect evasions of act prohibited.

Sale at less than contract price.

Wilfully and knowingly advertising, offering for sale or selling any commodity at less than the price stipulated in any contract entered into pusuant to the provision of Section 1 of this act, whether the person so advertising, offering for sale or selling is or is not a party to such contract, is unfair competition and is actionable at the suit of any person damaged thereby.

Liability.

Persons responsible.

Section 2. Any person who, either as director, officer or agent of any firm or corporation or as agent of any person, violating the provisions of this act, assists or aids, directly or indirectly in such violation shall be responsible therefor equally with the person, firm or corporation for whom or which he acts.

Unlawful intent.

In the prosecution of any person as officer, director or agent, it shall be sufficient to allege and prove the unlawful intent of the person, firm, or corporation for whom or which he acts.

Unlawful to sell at less than cost.

Section 3. It shall be unlawful for any person, partnership, firm, corporation, joint stock company, or other association engaged in business within this state, to sell, offer for sale or advertise for sale any article or product, or service or output of a service trade, at less than the cost thereof to such vendor, or give, offer to give or advertise the intent to give away any article or product, or service or output of a service trade for the purpose of injuring competitors and destroying competition, and he or it shall also be guilty of a misdemeanor, and on conviction thereof shall be subject to the penalties set out in Section 11 of this act for any such act.

Violation a misdemeanor.

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"Cost" defined.

The term "cost" as applied to production is hereby defined as including the cost of raw materials, labor and all overhead expenses of the producer; and as applied to distribution "cost" shall mean the invoice or replacement cost, whichever is lower, of the article or product to the distributor and vendor plus the cost of doing business by said distributor and vendor.

"Cost of doing business."

The "cost of doing business" or "overhead expense" is defined as all costs of doing business incurred in the conduct of such business and must include, without limitation the following items of expense: labor (including salaries of executives and officers), rent, interest on borrowed capital, depreciation, selling cost, maintenance of equipment, delivery costs, credit losses, all types of licenses, taxes, insurance and advertising.

Articles purchased at forced, bankrupt or close out sales.

Section 4. In establishing the cost of a given article or product to the distributor and vendor, the invoice cost of said article or product purchased at a forced, bankrupt, closeout sale, or other sale outside of the ordinary channels of trade may not be used as a basis for justifying a price lower than one based upon the replacement cost as of date of said sale of said article or product replaced through the ordinary channels of trade, unless said article or product is kept separate from goods purchased in the ordinary channels of trade and unless said article or product is advertised and sold as merchandise purchased at a forced, bankrupt, closeout sale, or by means other than through the ordinary channels of trade, and said advertising shall state the conditions under which said goods were so purchased, and the quantity of such merchandise to be sold or offered for sale.

Not basis for establishing cost price.

Exception.

Intent— allegation and proof.

Section 5. In any injunction proceeding or in the prosecution of any person as officer, director or agent, it shall be sufficient to allege and prove the unlawful intent of the person, firm or corporation for whom or which he acts. Where a particular trade or industry, of which the person, firm or corporation complained against is a member, has an established cost survey for the locality and vicinity in which the offense is committed, the said cost survey shall be deemed competent evidence to be used in proving the costs of the person, firm or corporation complained against within the provisions of this act.

Cost survey as evdience.

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Agricultural products.

Section 5-A. The following method shall be used in determining fair prices for agricultural products sold on local markets, in any trade area, district or city in which the major portion of any agricultural commodity or product is produced within or adjacent to said trade area, city or district.

Fair price—how established.

Determination by 75% of producers of article.

Whenever 75% of producers of any agricultural product or commodity marketing said products or commodities within any trade area, district or city shall determine what is a fair price based upon competitive and other factors for their product or commodity, it shall be deemed the fair price for such product or commodity under the terms of this act.

Filed with Montana trade commission.

Hearing.

Consumers entitled to appear.

Such producers through their regular constituted agents shall file with the Montana trade commission such fair price and request a hearing for the establishment of fair prices to jobbers, wholesalers, retailers and consumers of said agricultural products or commodities. Any organization representing consumers shall not be denied representation at such a meeting.

Violation to sell for less than price established by commission.

After the establishment of such a schedule of fair prices for said agricultural products or commodities, it shall be a violation of this act for any producer, jobber, wholesaler or retailer to sell or buy any agricultural commodity or product below such price as established by the Montana trade commission and such action shall be deemed a violation of this act and punishable under the terms provided in this act.

Exceptions.

Section 6. The provisions of Sections 3, 4 and 5 shall not apply to any sale made:

Closing out or discontinuing stock or commodity.

(a) In closing out in good faith, the owner's stock or any part thereof, for the purpose of discontinuing his trade in any such stock or commodity, and in the case of the sale of seasonal goods or to the bona fide sale of perishable goods to prevent loss to the vendor by spoilage or depreciation, provided notice is given to the public thereof;

Perishable goods.

Damaged goods.

(b) When the goods are damaged or deteriorated in quality, and notice is given to the public thereof;

Sale by an officer.

(c) By an officer acting under the orders of any court;

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(d) In an endeavor made in good faith to meet the legal prices of a competitor as herein defined selling the same article or product, or service or output of a service trade, in the same locality or trade area. May meet legal prices of competitor.

Any person, firm or corporation who performs work upon, renovates, alters or improves any personal property belonging to another person, firm or corporation, shall be construed to be a vendor within the meaning of this act. Vendor defined.

Section 7. The secret payment or allowance of rebates, refunds, commissions, or unearned discounts, whether in the form of money or otherwise, or secretly extending to certain purchasers special services or privileges not extended to all purchasers purchasing upon like terms and conditions, to the injury of a competitor and where such payment or allowance tends to destroy competition, is an unfair trade practice and any person, firm, partnership, corporation, or association resorting to such trade practice shall be deemed guilty of a misdemeanor and on conviction thereof shall be subject to the penalties set out in Section 11 of this act. Rebates, refunds, and unearned discounts. Unfair when. Penalty.

Provided, however, that nothing in this act shall prevent a cooperative association, organized and operating on a true cooperative basis, from returning to the members, producers or consumers the whole or any part of the net earnings or surplus resulting from its trading operations, in proportion to their purchases or sales from, to or through the association. Cooperative associations.

Section 8. Upon the third violation of any of the provisions of Sections 1 to 7, inclusive, of this act by any corporation, it shall be the duty of the attorney general to institute proper suits or quo warranto proceedings in any court of competent jurisdiction for the forfeiture of its charter, rights, franchises or privileges and powers exercised by such corporation, and to permanently enjoin it from transacting business in this state. If in such action the court shall find that such corporation is violating or has violated any of the provisions of Sections 1 to 7, inclusive, of this act, it must enjoin said corporation from doing business in this state permanently or for such time as the court shall order, or must annul the charter, or revoke the franchise of such corporation. When attorney general to act. Nature of proceeding. Court to enjoin doing of business.

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Contracts—when illegal.

Section 9. Any contract, express or implied, made by any person, firm or corporation in violation of any of the provisions of Sections 1 to 7, inclusive, of this act, is declared to be an illegal contract and no recovery thereon shall be had.

Who may enjoin violations.

Section 10. Any person, firm, private corporation or municipal or other public corporation, or trade association, may maintain an action to enjoin a continuance of any act or acts in violation of Sections 1 to 7, inclusive, of this act and, if injured thereby, for the recovery of damages. If, in such action, the court shall find that the defendant is violating or has violated any of the provisions of Sections 1 to 7, inclusive, of this act, it shall enjoin the defendant from a continuance thereof. It shall not be necessary that actual damages to the plaintiff be alleged or proved. In addition to such injunctive relief, the plaintiff in said action shall be entitled to recover from the defendant three times the amount of the actual damages, if any, sustained.

Recovery of damages.

When court shall enjoin.

Triple damages allowed, when.

Defendant required to testify and produce records.

Any defendant in an action brought under the provisions of this section may be required to testify under the provisions of the code of civil procedure of this state, in addition the books and records of any such defendant may be brought into court and introduced, by reference, into evidence; provided, however, that no information so obtained may be used against the defendant as a basis for a misdemeanor prosecution under the provisions of Sections 1 to 7, inclusive, and 11 of this act.

Information not available in prosecution for misdemeanor.

Penalties for violations of act.

Section 11. Any person, firm or corporation, whether as principal, agent, officer or director, for himself, or itself, or for another person, or for any firm or corporation, or any corporation, who or which shall violate any of the provisions of Sections 1 to 7, inclusive, of this act, is guilty of a misdemeanor for each single violation and upon conviction thereof, shall be punished by a fine of not less than one hundred dollars ($100.00), nor more than one thousand dollars ($1,000.00), or by imprisonment not exceeding six months or by both said fine and imprisonment, in the discretion of the court.

Montana trade commission to administer act.

No extra compensation.

Section 12. The Montana trade commission shall have the administration of this act; and the members thereof shall not receive any additional compensation for their services other than their salaries prescribed by law.

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Section 13. If any section, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of the act. The legislature hereby declares that it would have passed this act, and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, sentences, clauses or phrases be declared unconstitutional. Saving clause.

Section 14. The legislature declares that the purpose of this act is to safeguard the public against the creation or perpetuation of monopolies and to foster and encourage competition, by prohibiting unfair and discriminatory practices by which fair and honest competition is destroyed or prevented. This act shall be literally construed that its beneficial purposes may be subserved. Purpose of act.

Section 15. This act shall be known and designated as the "Unfair Practices Act". Name of act.

Section 16. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health and safety, and shall therefore go into immediate effect. The facts constituting the necessity are as follows: Urgency measure.

The sale at less than cost of goods obtained at forced, bankrupted, close out, and other sales outside of the ordinary channels or trade is destroying healthy competition. If such practices are not immediately stopped, many more businesses will be forced into bankruptcy. In order to prevent such occurrences, it is necessary that this act go into effect immediately. Why act is necessary.

Section 17. This act shall be in full force and effect from and after its passage and approval.

Approved March 3, 1937.

CHAPTER 81

An Act to Amend Section 182.1, Revised Codes of Montana of 1935, Authorizing the State Depository Board to Permit the State Treasurer to Invest Surplus Cash in His Office in Registered Warrants of the State of Montana, and/or Treasury Certificates of the Federal

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Government, and Prescribing for the Keeping of a Record of Registered Warrants and Such Certificates so Purchased. Providing That the Interest Earned Thereon Be Credited to the General Fund of the State, and Repealing All Acts and Parts of Acts in Conflict Therewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 182.1 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

State depository board may invest money in warrants of state or treasury certificates of U. S.

"Section 182.1. The state depository board may in its discretion by resolution duly adopted and entered upon the minutes of said board authorize and direct the state treasurer to invest any surplus cash in his office in registered warrants of the State of Montana, and/or treasury certificates of the federal government. All warrants purchased shall bear no interest. All warrants purchased shall be entered in an investment register and shall show the number and amount of all warrants."

Records required when treasury certificates purchased.

"All treasury certificates purchased shall be entered in an investment register which shall be a solid bound book with numbered pages and shall show the name and number of the treasury certificates, the date of purchase, the date sold, the face amount of the certificates, the amount of interest accrued at the time of sale and the total amount of the certificate and interest."

Where warrants are purchased.

"At the time of purchase, sale or redemption of any warrant or warrants, certificate or certificates under the provisions of this act, the treasurer shall file with the depository board, and also the state examiner, a detailed list of the warrants and certificates so purchased, sold or redeemed, together with interest thereon, and all interest received as a result of such investment shall be credited to the general fund of the State of Montana."

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith, are hereby repealed.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 3, 1937.

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CHAPTER 82

The Public Welfare Act, Relating to the General Welfare and the Social Security of the People of the State of Montana; Providing for the Non-institutional Indigent and the Unemployed Destitute; Providing for Old Age Assistance; Providing for Needy Dependent Children; Providing for Needy Blind Individuals; Providing for Services for Crippled Children; Providing for Services for Child Welfare and Relating to Vocational Rehabilitation; Creating a State Department of Public Welfare, a State Board of Public Welfare, County Boards of Public Welfare, Prescribing Their Powers and Duties; Creating Certain Funds; Providing for Administrative Functionaries, Their Appointment and Removal, Their Qualifications, Salary, Term and Tenure of Office and Their Powers and Duties; Prescribing Certain Powers and Duties of the Board of County Commissioners; Prescribing Rules of Eligibility and Regulations for All Assistance Under the Provisions of This Act; Providing for the Appropriation and Disposition of Funds and Revenue; Directing the Levy of Certain Taxes Provided by Law; Providing for Contracts With the United States; Defining Fraudulent Acts; Assuming the Powers and Duties of the Bureau of Child Protection and of the Orthopedic Commission and the State Board of Charities and Reforms Under the Authority and Supervision of the State Department of Public Welfare; and Repealing Sections From and Including Sections 325 to 335 Inclusive and Section 335.1 and Each Successive Section to and Including Section 335.45 and Sections From and Including Section 10480 and Each Successive Section to and Including Section 10487 of the Revised Codes of Montana 1935 Together With All Acts and Parts of Acts in Conflict Herewith; and Repealing and Providing for the Date of Repeal of Sections From and Including Section 2511 and Each Successive Section to and Including Section 2514, Sections From and Including Section 336 and Each Successive Section to and Including Section 347 of the Revised Codes of Montana 1935, and Providing Additional County Poor Fund Levies Under Certain Conditions.

Be it enacted by the Legislative Assembly of the State of Montana:

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PART I

TO ESTABLISH A STATE DEPARTMENT OF PUBLIC WELFARE AND COUNTY DEPARTMENTS OF PUBLIC WELFARE.

Section I. **Creation of Department.**

State department of public welfare created.

There is hereby created and established a state department of public welfare which shall consist of a state board of public welfare, a state administrator of public welfare and such other officers and employees as may be hereinafter authorized.

Section II. **Appointment of State Board.**

State board of public welfare.

(a) The state board of public welfare shall consist of five (5) members appointed by the governor with the advice and consent of the senate on the basis of a broad experience and interest in civic affairs and matters of public welfare. The members of the state board shall be appointed for overlapping terms of three (3) years and without regard to political affiliation. The first two members named shall be appointed for terms of one (1) year and the next two members named shall be appointed for terms of two (2) years, and the fifth member for a term of three (3) years. At the expiration of the first year all new appointments shall be for terms of three (3) years. Board members may be removed by the governor for cause.

Terms of members.

Qualifications.

(b) Each member of the state board shall be a citizen of the United States and a resident of the State of Montana for a period of five (5) years immediately preceding the date of his appointment. Appointments to fill vacancies in the membership of the state board shall be made by the governor for the remaining portion of such term.

Vacancies.

Oath of office.

(c) The members of the state board shall take and subscribe to the constitutional oath of office and shall furnish a surety company bond conditioned upon the faithful and proper discharge of their duties in the amount of five thousand ($5,000.00) dollars each, running to the State of Montana, the premium of which shall be paid by the state.

Bond.

Chairman and officers.

(d) The governor shall designate the chairman of the state board and the state board shall elect such remaining officers of the board as it may deem necessary.

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Compensation.

(e) Members of the state board shall receive no compensation for their services other than the actual amount of traveling expenses actually incurred in respect to the performance of their official duties in attendance at regular or special meetings of the board and ten ($10.00) dollars per diem for each day actually in attendance at such board meetings. The per diem of such individual member of the board shall be limited to not exceed the amount of five hundred ($500.00) dollars per year. No member of the state board shall have any direct financial interest in or profit by any of the operations of the state department of public welfare of any of its agencies.

Limitation of per diem.

Financial interest forbidden.

Per diem and expenses payable out of department funds.

Per diem and expenses of state board members shall, upon claims being presented according to state law, be paid out of funds appropriated to the state department of public welfare.

Existing state agencies to turn over books, property and moneys.

(f) It shall be the duty of the existing Montana relief commission, Montana old age pension commission, Montana orthopedic commission, state bureau of child and animal protection and the state board of charities and reform to turn over and deliver to the state board of public welfare created by this act, all books, records, maps, papers, moneys, and all property of any kind and description now in the possession of such boards, bureaus and commissions, and all funds heretofore appropriated to the use of the Montana relief commission, Montana old age pension commission, Montana orthopedic commission, state bureau of child and animal protection and the state board of charities and reform, are hereby appropriated to the state board created and provided for in this act, it is further provided that the state board of public welfare shall assume all lawful outstanding contracts, agreements and obligations of said boards, bureaus and commissions. Provided, however, that the provisions of this act shall not apply to the Montana orthopedic commission or the state bureau of child and animal protection until after the first day of July, 1937, and that these departments continue to operate as the law now provides until that date.

Funds previously appropriated to certain agencies hereby appropriated to this board.

Board to assume outstanding obligations.

Proviso as to orthopedic commission and bureau of child and animal protection.

Section III. **Powers and Duties of the State Board.**

State administrator.

(a) In cooperation with the governor the state board shall select and appoint an administrative officer for the state department of public welfare who shall be known

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as the state administrator and who shall have such tenure of office, salary and administrative per diem and travel expense as the state board may establish, with the exception that the salary of said state administrator shall not exceed five thousand ($5,000.00) dollars per year. The state administrator shall be selected and appointed with due regard to the education, training and ability necessary in public welfare administration and organization and shall have been a resident of the State of Montana at least five years prior to his appointment. The state administrator shall be bonded in the sum of twenty-five thousand ($25,000.00) dollars, the premium of which will be paid by the state.

Salary limitation.

Qualifications.

Bond.

(b) Within six months after the adoption and approval of this act it shall be the duty of the state board to establish and maintain minimum standards of service and personnel and to formulate salary schedules for the classified personnel, based upon training, experience and ability, for employees selected for positions in the state office of the state department and in county departments.

Board to establish standards of service and personnel.

A merit system when practical but not later than one (1) year from and after the effective date of this act shall be established and maintained pertaining to qualifications for appointments, tenure of office, annual merit ratings, releases, promotions and salary schedules and the state board shall cause examinations to be held from time to time throughout the state for the purpose of establishing an available qualified list in order of merit of persons eligible for appointment. Personnel standards shall conform in so far as possible with general standards as established or required by the federal social security board.

Merit system to be established.

Examinations to be held.

(c) The state board is charged with the authority and duty to exercise general supervision and control over all activities and agencies as provided for in each part of this act.

Duty of board.

The state board shall be limited in function to that of general policy and rules and regulations and all administrative and executive authority, functions and duties shall be vested in the state administrator, subject to the authority of the state board.

Duties of administrator.

The state board shall be responsible for the adoption of such general policies, rules and regulations as are necessary for the government of the state department,

Board to adopt policies conformable to the federal social security act.

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county departments or any of its agencies. All such policies, rules and regulations shall conform to the federal social security act, the rules and regulations issued by the federal social security board and also shall conform to the state welfare act and all policies, rules and regulations so adopted by the state board shall be binding upon the several county departments and county boards of public welfare.

Board shall administer funds.

(d) The state department of public welfare is hereby authorized and it shall be its duty to administer and supervise all federal funds allocated to the state and all state funds appropriated to the state department of public welfare, for the activities and purposes set forth under each part of this act. The state department of public welfare is also hereby authorized and it shall be its duty to do all things necessary, in conformity with federal and state laws, for the proper fulfillment of the purposes set forth in this act.

Records to be maintained and reports rendered.

(e) The state department of public welfare shall maintain such records and render such reports as may be required by the federal board and such additional records and reports as shall be found necessary for state purposes or required by the state examiner. County departments shall likewise be required to maintain such records and render such reports as the state board may require.

Examination by state examiner.

All receipts of monies, goods or property and all disbursements therefrom shall be subject to examination and audit by the state examiner.

Method of accounting.

The fiscal rules and regulations of the United States government, as enjoined upon the states in respect to the federal social security act, shall be used by the state and county departments as a method of accounting for all joint federal state funds.

Section IV. **Legal Services.**

Attorney general to act as legal advisor.

May employ additional counsel.

Limit of compensation.

The attorney general of the state shall act as legal adviser to the state department of public welfare and shall perform such legal services as may be required and he is hereby empowered to employ such other and additional counsel as may be necessary for this purpose, and may fix the compensation therefor, provided, however, that the total sum per annum for the service shall not exceed twenty-four hundred ($2400.00) dollars, which

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compensation shall be paid out of state public welfare funds.

Section V. **Divisions of Administration.**

Divisions in state department may be established.

The administrator, with the approval of the state board, may establish divisions in the state department for the administration of this act, and may allocate and re-allocate functions between divisions as may be necessary or desirable for competent administration.

Section VI. **Powers and Duties of the State Administrator.**

Powers and duties of administrator.

(a) The administrator shall be the executive and administrative officer of the state department of public welfare and shall act as secretary of the state board. He shall prepare and submit to the state board for its approval an annual budget of all funds necessary to be appropriated by the legislature to the state department for the purpose of this act, including in such budget an estimate of federal funds which may be allotted to the state for the purposes of the state department. He shall prepare annually a full report of operations and administration of the state department, together with suggestions and recommendations, and such report shall be submitted to the governor not later than one month after the close of the fiscal year. Such reports shall include all necessary statistical and financial information not only in respect to the operations and administration of the state department but also the county departments.

May appoint personnel, with approval of board.

(b) The state administrator shall, subject to the approval of the state board appoint such other state department and supervisory field personnel as may be necessary for the efficient performance of the duties and purposes prescribed in this act. All state department and county department personnel shall insofar as possible be legal residents of the State of Montana.

Section VII. **Authority and Activities of the State Department.**

Duties of state department.

The state department is hereby charged with authority over and administration or supervision of all the purposes and operations as set forth under the several parts of this act. The state department shall:

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(a) Administer or supervise all forms of public assistance including general relief, old age assistance, aid to dependent children, aid to needy blind, child protection and child welfare and the supervision of agencies and institutions caring for dependent, delinquent or mentally or physically handicapped children and adults. To administer all forms of public assistance.

(b) Administer or supervise all child welfare activities, including importation and exportation of children; licensing and supervising of private and local child-caring agencies; the care of dependent, neglected and delinquent children in foster family homes, especially children placed for adoption or those of illegitimate birth. To administer child welfare activities.

(c) Supervise private institutions providing care for the needy, indigent, handicapped or dependent adults. To supervise certain private institutions.

(d) Develop and cooperate with other state agencies provisions for services to the blind, including the prevention of blindness, the location of blind persons, medical services for eye conditions and vocational guidance and training of the blind. To develop services to the blind.

(e) Provide services to county governments in respect to organization and supervision of county welfare departments for efficiency and economy in the administration of public welfare functions. To assist counties in respect to county welfare departments.

(f) Prescribe and maintain minimum standards and salary rates for public welfare personnel in state and county departments, establish rules and regulations to maintain such standards, and furnish to the county welfare boards a list of qualified personnel who are available for appointment. Insofar as possible such personnel shall be residents of the county. To prescribe standards for personnel.

(g) Assist and cooperate with other state and federal departments, bureaus, agencies and institutions, when so requested, by performing services in conformity with the purposes of this act. To cooperate with other agencies.

(h) Act as the agent of the federal government in public welfare matters of mutual concern in conformity with this act and the federal social security act, and in the administration of any federal funds granted to the state to aid in the purposes and functions of the state department. If grants from the federal government are contingent upon state funds for the provisions to To act as agent of federal government.

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Qualifications of Indians for assistance.

assistance to Indians, all Indians qualified for assistance hereunder to which the federal government contributes, and who are enrolled on an Indian reservation in the State of Montana, or who are of Indian blood and have resided in the State of Montana for five years during the nine years immediately preceding application and has resided within the State of Montana continuously for one year immediately preceding application or have not received their patent in fee to any tribal allotment shall be allowed assistance hereunder in the county in which he resides, but for assistance paid to him the state fund shall not be reimbursed by the county.

Section VIII. **State Grants-in-aid.**

Authority of state department.

In administering or supervising any state or federal funds appropriated or made available to the state department for public welfare purposes, the state department shall have the authority to:

May require county to bear proportion of local public assistance.

(a) Require as a condition for receiving grants-in-aid that the county shall bear the proportion of the total of local public assistance as is fixed by law relating to such assistance.

May use legal processes to enforce standards.

Proviso.

(b) Make use of all legal processes to enforce the minimum standards prescribed by the state department under laws providing for grants-in-aid, provided that such standards shall not exceed in cost the amount derived from levies established by state law.

May require act be in effect in all counties.

(c) Require that each part of this act shall be in effect in all counties of the state.

Section IX. **County Departments.**

County departments to be established.

(a) There shall be established in each county of the state a county department of public welfare which shall consist of a county board of public welfare and such staff personnel as may be necessary for the efficient performance of the public welfare activities of the county. Provided, however, if conditions warrant and if two or more county boards enter into an agreement, two or more counties may combine into one administrative unit and use the same staff personnel throughout the administrative unit.

Combination of counties into one administrative unit.

County commissioners to be ex officio county welfare board.

(b) The board of county commissioners, ex officio, shall be the county welfare board and shall receive the same compensation for their services when acting as

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the county board of public welfare as they receive when acting as the board of county commissioners and shall be limited as to meetings as now provided by law.

Certain county officers to be ex officio officers of county board.

(c) The county attorney shall be, ex officio, the legal advisor to the county welfare board and shall render such legal services as the county department may require. The county clerk and recorder shall be, ex officio, the secretary and clerk of the county welfare board.

Section X. **Powers and Duties of the County Board.**

Powers and duties of county board.

(a) The county board of public welfare shall be responsible for establishing local policies and such rules and regulations as are necessary to govern the county department and local administration of public welfare activities except that all such policies and rules and regulations must be in conformity with general policies and rules and regulations established by the state board.

Staff personnel.

(b) Each county board shall select and appoint, from a list as qualified by the state department, such staff personnel as are necessary. The staff personnel in each county shall consist of at least one qualified staff worker (or investigator) and such clerks and stenographers as may be decided necessary by the county board. If conditions warrant, the county board, with the approval of the state department, may appoint one of the local staff of public assistance workers in a supervisory capacity. The staff personnel of each county department are directly responsible to the county board, but the state department shall have the authority to supervise such county employees in respect to the efficient and proper performance of their duties. Public assistance staff personnel attached to the county board shall be paid from state public welfare funds. One-half of the administrative cost of the county department shall be reimbursed to the state treasurer by the county in accordance with the terms of this act.

Employment of public assistance worker.

State department to have supervision.

One-half of cost of county department to be reimbursed to state treasurer.

County departments to be supervised by field supervisors and field auditors of state department.

(c) County departments shall be under the supervision of such field supervisors and field auditors as may be appointed for this purpose by the state department. Such field supervisors and field auditors shall be direct representatives of the state department in maintaining personal contact, supervision and advisory services between the state department and the county department.

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Recommendations of county staff workers.

(d) County welfare boards will give due regard to and may be guided by the recommendations of the county staff workers (or investigators) in all matters of public assistance or child welfare activities.

Reports to state department.

(e) The county board shall be required to submit to the state department such monthly, quarterly or yearly reports as the state board may require in respect to county public assistance activities, county welfare or poor funds, and such state funds as are granted to the county for assistance purposes.

Section XI. **Functions and Activities of the County Department.**

County department chargeable with local administration of all forms of public assistance and welfare operations.

(a) The county department of public assistance shall be charged with the local administration of all forms of public assistance and welfare operations in the county including general relief, old age assistance, aid to dependent children, aid to needy blind and child protection and welfare, except that all such local administration must conform to federal and state law and the rules and regulations as established by the state board.

County commissioners to levy tax for poor fund.

(b) It is hereby made the duty of the board of county commissioners in each county to levy the six mills required by law for the poor fund and to budget and expend so much of the funds in the county poor fund for all purposes of this act as will enable the county welfare department to meet its proportionate share of such assistance granted in the county, and the county budget shall make provision therefor and an account shall be established for such purpose. If the six mill levy shall prove inadequate to meet the county's proportionate share of public assistance under any part of this act and if the county board of commissioners is unable to declare an emergency for the purpose of providing additional funds, and if an audit by the state examiner's office proves this condition to be true and the county board has expended its poor fund only for the purposes levied, then such proportion of its public assistance as the county is unable to meet shall be paid from the state public welfare fund.

Under what conditions balance of county's share of public assistance shall be paid from state fund.

Section XII. **Right of Appeal.**

Appeal to state department by applicant for assistance.

If an application for assistance under this act is not acted upon by the county department within a reasonable time after the filing of the application, or is denied in

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whole or in part, or if any award of assistance is modified or cancelled under any provision of this act, the applicant or recipient may appeal to the state department in the manner and form prescribed by the state department. The state department shall, upon receipt of such an appeal, give the applicant or recipient reasonable notice and opportunity for a fair hearing.

Original jurisdiction of state department in relation to applications.

The state department may also, upon its own motion, review any decision of a county department, and may consider any application upon which a decision has not been made by the county department within a reasonable time. The state department may make such additional investigation as it may deem necessary, and shall make such decision as to the granting of assistance and the amount of assistance to be granted the applicant as in its opinion is justified and in conformity with the provisions of this act.

Affected applicants or recipients entitled to notice and hearing.

In the case of the state department reviewing a county decision on its own motion, applicants or recipients affected by such decisions of the state department shall, upon request, be given reasonable notice and opportunity for a fair hearing by the state department.

Decisions of state department final.

All decisions of the state department shall be final and shall be binding upon the county involved and shall be complied with by the county department.

Section XIII. **Right to Hold Property.**

Powers of board as to property.

The state board shall have power to acquire by purchase, exchange, or gift, on such terms and conditions and in such manner as it may deem proper, and to acquire by condemnation in accordance with and subject to the provisions of any and all existing laws applicable to the condemnation of property for public use, and land, rights, easements, and other property, either real or personal, necessary or proper to carry out the purposes set forth in this act. Title to property purchased, or condemned, or acquired in whatever manner, shall be taken in the name of the State of Montana for the use and benefit of the state department.

May acquire by condemnation.

Section XIV. **Power to Make Contracts.**

May make contracts with United States.

The state board is empowered to enter into contracts and leases with the United States of America, its instrumentalities, or its agencies, or any thereof, to carry out

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any of the purposes set forth in this act and may in such contracts or leases authorize the United States, its instrumentalities or agencies, or any thereof, to exercise such supervision over any property belonging to the state board, or any matter or thing the subject of said contract or lease, as it may be required by the United States, its instrumentalities, or its agencies, or any thereof, until such time as any money expended, advanced or loaned by the said United States, its instrumentalities, or agencies, and agreed to be repaid thereto by the state board shall have been fully repaid. It is the purpose and intent of this act that the state board shall be authorized and empowered to accept, cooperation from the United States of America, its instrumentalities and agencies in all matters deemed necessary by the state board to carry out the purposes of this act, and the state board shall have full power to do all things necessary in order to avail itself of such aid, assistance and cooperation under federal legislation heretofore or hereafter enacted by congress or under any proclamation or order of the executive, or of any executive department or agency, of the United States, now or hereafter promulgated or made.

Intent of act as to powers of board.

Section XV. **Fraudulent Acts.**

Obtaining public assistance by fraud is a misdemeanor.

Whoever knowingly obtains, or attempts to obtain, or aids, or abets any person to obtain by means of wilfully false statement or representation or by impersonation, or other fraudulent device, public assistance to which he is not entitled, assistance greater than that to which he is justly entitled; or whoever aids or abets in buying or in any way disposing of the property, either personal or real, of a recipient of assistance without the consent of the county department and with the intent to defeat the purposes of this act, shall be guilty of a misdemeanor. In assessing the penalty the court shall take into consideration, among other factors, the amount of money fraudulently received.

Section XVI. **Approval or Denial Signatures.**

Signing denial or approval of applications.

Approved or denied applications for assistance under this act shall be signed by the chairman and one other member of the county board. In the event that the state board may require all such actions to be reviewed and receive the final approval or disapproval of the state department, the state board shall designate certain ex-

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ecutive officers of the state department who shall sign such state department approvals or disapprovals.

Section XVII. **Revocation of Assistance.**

Revocation of assistance.

If at any time the county or state departments have reason to believe, by reason of a complaint or otherwise, that public assistance under this act has been improperly granted, it shall cause an investigation to be made. If it appears as a result of any such investigation that the assistance was improperly granted, the state department shall notify the county department that no further payments shall be authorized for such recipient. The right of appeal is granted recipients whose assistance has been revoked.

Section XVIII. **Assistance Not Assignable.**

Assistance not assignable.

Not subject to execution.

Assistance granted under this act shall not be transferable or assignable, at law or in equity, and none of the money paid or payable under this act shall be subject to execution, levy, attachment, garnishment or other legal process, or to the operation of any bankruptcy or insolvency law.

Section XIX. **Method of Issuing Assistance Grants.**

Checks in payment of assistance.

(a) Checks in payment of public assistance, as provided for in each part of this act, with the exception of general relief, shall be issued by the state department upon approved lists of such eligible grantees as are forwarded by the county department to the state department and all such checks will be mailed to the individual recipient. The checks in payment of public assistance shall be issued in the full approved amount for each eligible approved grantee and the original monthly payment shall be from the state public welfare accounts. All public assistance checks shall represent cash on demand at full par value to the recipient.

Reimbursement by county to state department.

(b) On or before the twentieth of each month the state department will present a claim for reimbursement to each county department for its proportionate share of public assistance granted in the county during the month. The county department must make such reimbursement to the state department within twenty days after such claim is presented.

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Section XX. **Records and Reports.**

County department to keep records, make reports.

Each county department shall keep such records and make such reports and in such detail as the state department may from time to time require, and shall transmit to the state department upon its request copies of applications and any or all other records pertaining to any case. The state department is hereby authorized and directed to keep such records and to make such reports, in such form and containing such information, as the federal social security board may from time to time require, and comply with such provisions as the federal board may from time to time find necessary to assure the correctness and verification of such reports.

Records and reports by state department.

Within sixty (60) days after the close of each calendar year, the state department shall make a report to the governor for the preceding year, which shall include a full account of the administration of each division of public assistance, the expenditure of all funds for these purposes adequate and complete statistics concerning public assistance within the state and such other information as may be required.

Annual report by state department.

Section XXI. **Limitations of Act.**

Act may be amended or repealed.

All assistance granted under this act shall be deemed to be granted and to be held subject to the provisions of any amending or repealing act that may hereafter be passed, and no recipient shall have any claim for compensation, or otherwise, by reason of his assistance being affected in any way by such amending or repealing act.

PART II.

GENERAL RELIEF: TO PROVIDE AID TO THE UNEMPLOYABLE DESTITUTE AND THOSE MADE DESTITUTE THROUGH LACK OF EMPLOYMENT AND ALL THOSE IN NEED OF PUBLIC ASSISTANCE NOT ELIGIBLE OR OTHERWISE CARED FOR UNDER OTHER PARTS OF THIS ACT.

Section I. **Administration.**

General relief.

The state department and county departments of public welfare are hereby authorized and charged with the administration and supervision of general relief under the powers, duties and functions as prescribed in Part I of this act.

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Section II. **Eligibility Requirements for General Relief.**

(a) An applicant to be eligible for general relief must have resided in the State of Montana for a period of one year, six months of which must be in the county where application is made.

Eligibility for relief.

Residence.

(b) The fact of need shall be the determining factor in the right of residents to obtain relief. Any individual or family who is a resident and whose income is insufficient to provide the primary necessities of life, such as food, shelter and clothing, shall be eligible for relief.

Relief determined by need.

(c) Aliens found to be illegally within the United States shall not be eligible for relief from state funds.

Aliens.

(d) Inter-state transients, without legal Montana residence, shall not be eligible for continued assistance from state funds but may, if in distress, receive temporary relief from either state or county funds until such time as such transients may be returned to their state of legal residence or state or origin. If transient families are stranded and without means of return, their transportation may be paid from state funds.

Inter-state transients.

(e) An applicant must not be in need of continued care in a public institution because of physical or mental condition.

Need of institutional care.

(f) Individuals receiving assistance under other parts of this act shall not receive supplementary cash assistance from state relief funds.

No supplementary cash assistance.

Section III. **Equal Consideration.**

Persons eligible for and in need of relief shall be, whether employable or unemployable, given equal consideration for public assistance as those persons eligible for assistance under other parts of this act.

Eligibles to have equal consideration.

Section IV. **Right of Appeal and Hearing.**

All persons seeking public assistance from relief funds are hereby guaranteed the right of appeal to either the county public welfare board or the state public welfare department, or both. Individuals or committees with complaints or grievances shall be given a fair and impartial hearing by either the county board or the state

Applicants guaranteed right of appeal.

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Complaints to be heard.

department and it shall be required that due consideration shall be given all proven facts presented by such individuals or committees and the county board or the state department shall be required to relief such situations, if not otherwise prohibited by law and to the extent of funds available.

Section V. **Relief in Cash.**

Relief in cash.

All relief disbursements by the county or state departments to relief recipients shall be by warrant or check representing cash on demand, provided however that if there is evidence to prove that the recipient is in the habit of dissipating the relief allowance instead of using it for the purpose intended, cash relief will be discontinued to such person and the relief allowance will be given in the form of disbursing orders.

Disbursing orders in lieu of cash, when.

Section VI. **Medical Aid and Hospitalization.**

Board of county commissioners to provide medical aid and hospitalization.

Medical aid and services and hospitalization for persons unable to provide such necessities for themselves are hereby declared to be the legal and financial duty and responsibility of the board of county commissioners, payable from the county poor fund. It shall be the duty of the board of county commissioners to make provision for competent and skilled medical or surgical services as approved by the state board of health or the state medical association. "Medical" or "medicine" as used in this act refers to the healing art as practiced by licensed practitioners.

"Medical."

Section VII. **Primary Obligations of the Board of County Commissioners.**

Duty of board of county commissioners.

It is hereby declared to be the primary legal duty and financial obligation of the board of county commissioners to make such tax levies and to establish such budgets in the county poor fund as provided by law and as are necessary to provide adequate institutional care for all such indigent residents as are in need of institutional care and to make such tax levies and establish such budgets in the county poor fund as are necessary to make provision for medical aid and services and hospitalization for all indigent county residents. All such public assistance and services shall be charges against and payable from the county poor fund.

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Section VIII. **Certification for Relief Employment.**

Investigation of eligibility of employable persons.

For such time as the federal government shall require, it shall be the duty and responsibility of the state and the county public welfare department to make all investigations and certifications required by federal employment agencies in respect to the eligibility of employable persons for employment on government emergency work projects.

Section IX. **Grants From State Funds to Counties.**

What state department may require as condition of grants to counties.

The state public welfare department shall have the authority to require as a condition of grants from state funds to counties for relief purposes that the board of county commissioners shall make such tax levies and establish such budgets as are needed in respect to the public assistance situation in the county, not otherwise prohibited by law. The state department of public welfare shall also have the authority to require as a condition of grants from state funds to the counties that the county board of commissioners shall make no transfers from the county poor fund or charges against the county poor fund for purposes other than for which the county poor fund is established by law, and it is hereby made mandatory upon the board of county commissioners that taxes levied and collected for the county poor fund shall be expended only for the purposes levied.

Transfers from and improper charges against county poor fund forbidden.

Financial inability of county.

It shall be within the authority of the state department of public welfare to make grants-in-aid from state funds to the county departments of public welfare for general relief purposes in proportion to the financial inability of the county to provide for relief assistance to its own residents.

Relief according to established standards.

It is hereby also declared to be the legal and financial responsibility of the board of county commissioners to provide adequate relief to persons in need of the same according to standards established by the state department of public welfare and to the extent that county funds are available.

Power of county commissioners in emergency.

To meet emergency conditions that may arise within the county the board of county commissioners is hereby empowered to declare an emergency and to make additional levies and transfers from other funds, as now provided by law.

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Section X. **Application for Relief.**

Application for relief.

Each applicant for general relief shall make application to the county department of public welfare and the application shall be made in the manner and on the form prescribed by the state department, provided however, that no application form shall contain what is commonly known as "the pauper's oath".

"Pauper's oath" excluded.

Forms to be furnished by state department.

Blank forms for applications and other records required by the state department shall be printed and furnished by the state department to the county department.

Section XI. **Investigations of Relief Applications.**

Investigation of applicant.

Whenever a county public welfare department receives an application for general relief assistance, an investigation and record shall be promptly made of the circumstances of the applicant. Investigations in respect to applications for general relief assistance shall be made by the staff-worker (or investigator) of the county public welfare department. If there is self-evident evidence that the applicant is in immediate need of assistance, the county department shall issue temporary assistance pending such time as a complete investigation can be made.

Temporary assistance.

Section XII. **Granting of Assistance.**

Upon the completion of an investigation the county public welfare shall decide whether the applicant is eligible for relief assistance, the amount of the assistance and the date on which the assistance shall begin.

Amount of assistance.

The amount of relief assistance granted any person or family shall, subject to the regulations and standards of the state department, be determined by the county department with due regard to the resources and necessary expenditures of the individual or family and the conditions existing in each case, and shall be sufficient to provide each person or family with a reasonable subsistence compatible with decency and health.

As heretofore provided in this part, relief disbursements made by the county department to relief recipients shall be by warrant or check, payable from either the county or state funds, as available or as provided.

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Section XIII. **Grants-in-aid to County Departments.**

Grants-in-aid to county.

The state department shall make grants-in-aid from state public welfare funds to county public welfare departments for general relief purposes, subject to the conditions in Section Ten of this part, and the county department shall make the disbursements of such State funds for relief purposes within the county.

Disbursements.

PART III.

TO PROVIDE FOR OLD AGE ASSISTANCE TO AGED PERSONS IN NEED, IN CONFORMITY WITH TITLE I OF THE FEDERAL SOCIAL SECURITY ACT OF 1935, OR AS AMENDED.

Section I. **Provision for Administration.**

Administration of old age assistance.

(a) The state department of public welfare is hereby authorized and is charged with the general administration and supervision of old age assistance under the powers, duties and functions as prescribed in Part I of this act.

Local administration.

(b) The county department of public welfare shall be charged with the local administration and supervision of old age assistance, subject to the powers, duties and functions prescribed for the county department in Part I of this act.

Plan and operation to be uniform throughout several counties.

(c) It is hereby mandatory and required that the state plan and operation of old age assistance shall be in effect in each and every county of the state and the administration and supervision of old age assistance shall be uniform throughout the several counties of the state.

State to supply copies of act and blank forms.

(d) The state department of public welfare shall have printed and distribute copies of this act to all county welfare departments and shall prescribe the form of and print and supply to the county welfare departments blanks of applications, reports and such other forms as may be necessary in relation to old age assistance.

County departments bound by rules.

(e) All rules and regulations of the federal social security board and the state department of public welfare made under this act shall be binding upon the county departments of public welfare.

Old age assistance defined.

(f) Definition, old age assistance as used in this part means money payments to aged needy individuals.

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Eligibility requirements.

Section 11. **Eligibility Requirements for Old Age Assistance.** Old age assistance shall be granted any person who:

Age.

(a) Has attained the age of sixty-five (65) years.

Inadequacy of income.

(b) Has income which is inadequate to provide a reasonable subsistence compatible with decency and health.

Residence in state.

(c) Has been a resident of the State of Montana for at least five (5) years during the nine (9) years immediately preceding his application for old age assistance.

Residence in county.

(d) Has resided in and been an inhabitant of the the state and county in which application is made for at least one (1) year immediately preceding the date of the application. Any person otherwise qualified who has resided in the state for five (5) years or more during the nine (9) years immediately preceding the application, one (1) year of which state residence shall have been immediately prior to the date of the application,

Applicant with no legal county residence.

and who has no legal county residence, shall file his application in the county in which he is residing, and his assistance, shall be paid entirely from state funds until he can qualify as having a legal residence in the said county. For the purpose of this act, every person who has resided one (1) year or more in any county in this state shall thereby acquire a legal residence in

Legal residence in county.

such county, which he shall retain until he has acquired a legal residence elsewhere, or until he has been absent voluntarily and continuously for one (1) year therefrom.

Inmate of public institution.

(e) Is not at the time of receiving assistance an inmate of any public institution, except in the case of temporary medical or surgical care in a hospital.

Assignment of property.

(f) Has not made an assignment or transfer of property for the purpose of rendering himself eligible for assistance under this act at any time within two years immediately prior to the filing of application for assistance pursuant to the provisions of this act.

Need of institutional care.

(g) Is not because of his physical or mental condition in need of continued care in a public institution.

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Section III. **Amount of Assistance.**

Amount of assistance.

The amount of old age assistance granted any person shall, subject to the regulations and standards of the state department, be determined by the county department with due regard to the resources and necessary expenditures of the individual and the conditions existing in each case and shall be sufficient, when added to all other income and support of the recipient, to provide such person with a reasonable subsistence compatible with decency and health.

Section IV. **Application for Assistance.**

Application for assistance.

Application for assistance under this act shall be made by the person seeking such assistance to the county office of the county department in the county in which the person is a resident, or is establishing residence. The application shall be in writing or reduced to writing in the manner and upon the form prescribed by the state department. Such application shall contain a statement of the amount of property, both personal and real, in which the applicant has an interest and of all income which he may have at the time of the filing of the application, and such other information as may be required by the state department. An inmate of a public institution of a correctional, custodial, or curative character may make an application while in such a home or institution, but the assistance, if granted, shall not be paid until after he ceases to be such an inmate. Assistance shall be granted on official approval of the application.

Contents of.

Inmate of institution.

Section V. **County Share of Participation.**

County share of participation.

Each county department shall reimburse the state department in the amount of sixteen and two-thirds (16-2/3%) per centum of the approved old age assistance grants to persons in the county each month. Such reimbursements shall be credited to the old age assistance account of the state department.

Section VI. **Investigation of Applications.**

Investigation of applications.

Whenever a county public welfare department receives an application for an old age assistance grant, an investigation and record shall be promptly made of the circumstances of the applicant. The object of such investigation shall be to ascertain the facts supporting the

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application made under this act and such other information as may be required by the rules of the state public welfare department. The county board and the state department shall have the power to issue subpoenas for witnesses and compel their attendance and the production of papers and writings. The investigation of each application for old age assistance shall be conducted by the staff workers (or investigators) of the county department.

Subpoenas for witnesses.

Upon the completion of such investigation the county public welfare board shall decide whether the applicant is eligible for and should receive an old age assistance grant under this act, the amount of the assistance, and the date on which the assistance shall begin. It shall make an award which shall be binding upon the county board and be complied with by such county board until modified or vacated. It shall notify the applicant of its decision in writing.

County board to determine eligibility and fix amount of assistance.

Notice of decision.

Section VII. **Funeral Expenses.**

Upon the death of a person who has been receiving old age assistance, funeral expenses shall be paid by the board of county commissioners from the county poor fund, if the estate of the deceased is insufficient to pay the same. Grants from the old age assistance account are not allowable for funeral expenses.

Funeral expenses.

Not allowable from assistance account.

Section VIII. **Assistance May Be Paid to Guardian.**

If the person receiving old age assistance is, in the opinion of the county public welfare department, found incapable of taking proper care of himself or his money, the county public welfare board may make the necessary legal arrangements for the appointment of a guardian, and shall then direct that the old age assistance payments be paid to the guardian for the benefit of such irresponsible recipient.

County may arrange for appointment of guardian for irresponsible recipient.

Payments to guardian.

Section IX. **Subsequent Increase of Income.**

If, at any time during the continuance of old age assistance, the recipient thereof or the husband or wife (if living together) of the recipient, becomes possessed of any property or income in excess of the amount enjoyed at the time of the granting of the assistance, it shall be the duty of the recipient immediately to notify the county department of the receipt and possession

Recipient to notify county department of additional property or income.

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of such property or income, and the county board may, on inquiry, either cancel the assistance or vary the amount thereof in accordance with circumstances, any excess assistance heretofore paid shall be returned to the state and the county in proportion to the amount of the assistance paid by each respectively, and be recoverable as a debt due the state and the county. If federal funds have been involved, fifty (50%) per cent of any recovery shall be paid to the United States government, if required by federal law.

Excess assistance to be returned.

Section X. **Periodic Review of Assistance Grants.**

All old age assistance grants made under this act shall be reviewed and reconsidered by the county public welfare department quarterly or not less than four (4) times within each calendar year. After such further investigation as the county board may deem necessary or the state board may require, the amount and manner of giving the assistance may be changed or the assistance may be withdrawn if such authority finds that the recipient's circumstances have changed sufficiently to warrant such action. It shall be within the power of the county board at any time to cancel and revoke assistance for cause, and it may for cause suspend payments for assistance for such periods as it may deem proper, subject to review or final approval by the state department.

Periodic review of assistance grants.

Grants may be withdrawn or changed.

Suspension and revocation of assistance.

Section XI. **Recovery from the Estate.**

On the death of any recipient of old age assistance, the total amount of assistance paid under this act shall be allowed as a claim against the estate of such person after funeral expenses not to exceed one hundred ($100.00) dollars have been paid and after the expense of administering the estate has been paid. No claim shall be enforced against any real estate of a recipient while it is occupied by the surviving spouse, or dependent.

Assistance paid allowable as claim against estate of recipient.

If the federal law shall so require, the federal government shall be entitled to a share of any amounts collected from recipients or from their estates equal to not more than one-half of the amount collected and the amount due the United States shall be paid promptly by the state to the United States government. The remaining one-half of the amount collected shall be distributed to the state and county in proportion to the total amount of such assistance paid by each.

Disposition of amount collected.

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Section XII. **Change of Residence of Person Receiving Old Age Assistance.**

Recipient moving to another county.

A recipient who moves to another county in this state shall continue to receive assistance, with the approval of the state department, and the county from which he has moved shall be charged by the state department for such county share of his assistance for a period of six months after which time the county to which he has moved shall be charged therefor; the county from which he has moved shall transfer the records of the case of such recipient to the county department of the county to which he has moved on notification so to do by the state department.

PART IV.

TO PROVIDE FOR AID TO NEEDY DEPENDENT CHILDREN, IN CONFORMITY WITH PART IV OF THE FEDERAL SOCIAL SECURITY ACT OF 1935, OR AS AMENDED.

Section I. **Definitions.**

When used in this part:

"Dependent child."

(a) The term "dependent child" means a child under the age of sixteen who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, or aunt, in a place of residence maintained by one or more of such relatives as his or their own home.

"Aid to dependent children."

(b) The term "aid to dependent children" means money payments with respect to a dependent child or dependent children.

Section II. **Administration.**

Administration of aid to dependent children.

(a) The state department of public welfare is hereby authorized and is charged with the general administration and supervision of aid to dependent children under the powers, duties and functions as prescribed in Part I of this act.

Local administration.

(b) The county department of public welfare shall be charged with the local administration and supervision

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of aid to dependent children, subject to the powers, duties and functions prescribed for the county department in Part I of this act.

Plan to be uniform throughout state.

(c) It is hereby mandatory and required that the state plan and operation of aid to dependent children shall be in effect in each and every county of the state and the administration and supervision of aid to dependent children shall be uniform throughout the several counties of the state.

State to supply printed copies of act and blank forms.

(d) The state department of public welfare shall have printed and distribute copies of this act to all county welfare departments and shall prescribe the form of and print and supply to the county welfare departments blanks of applications, reports and such other forms as may be necessary in relation to aid to dependent children.

County bound by rules of state department.

(e) All rules and regulations of the state department of public welfare made under this act shall be binding upon the county departments of public welfare. The state board of public welfare shall make such rules and regulations and take such action as may be necessary or desirable for carrying out the provisions of this part.

State to cooperate with federal government.

(f) The state department shall cooperate with the federal government in matters of mutual concern pertaining to assistance to dependent children, including the adoption of such methods of administration as are found by the federal government to be necessary for the efficient operation of the plan for such assistance.

Reports by state department to federal government.

(g) The state department shall make such reports in such form and containing such information as the federal government may from time to time require, and comply with such provisions as the federal government may from time to time find necessary to assure the correctness and verification of such reports.

Publication of reports.

(h) The state department shall publish an annual report and such interim reports as may be necessary or required.

Administration in county.

(i) The county department of public welfare shall administer the provisions of this part in the respective counties subject to the rules and regulations prescribed by the state department pursuant to the provisions of this part.

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Section III. **Eligibility for Assistance in Aid to Dependent Children.**

Eligibility for assistance.

Assistance shall be granted under this part to any needy dependent child—as defined in Section I.—who:

Family home.

(a) Is living in a suitable family home meeting the standards of care and health fixed by the laws of this state and the rules and standards of the state department thereunder.

Need of assistance.

(b) Is in need of such assistance—as defined in Section I.

Residence in state.

(c) Who has resided in the state for one year immediately preceding the application for such assistance; or who was born within the state within one year immediately preceding the application, if the mother has resided in the state for one year immediately preceding the birth of said child. Any dependent child meeting the above requirements shall be entitled to the assistance herein provided for but the state shall pay the full amount of such assistance unless and until the child has been a resident of the county for a period of six months, or, unless the child is less than six months old and its mother shall have resided in the county before the birth of such child for a period of time which added to the period of time of the residence of such child in the county shall constitute a total of six months.

Assistance payable by state or county as determined by residence in county.

Need of institutional care.

(d) Is not because of a physical or mental condition in need of continued care in a public institution.

Alien parents.

(e) Whose parents are not aliens illegally within the United States.

Section IV. **Application for Assistance.**

Application for assistance.

Application for assistance under this part shall be made to the county department of the county in which the dependent child resides or shall reside. The application shall be in writing or reduced to writing in the manner and upon the form prescribed by the state department. Such application shall be made by the person having custody of the dependent child and shall contain information as to the age and residence of the child and such other information as may be required by the rules and regulations of the state department. One application may be made for several children of the same family if they reside with the same person.

Contents and by whom made.

One application for several children.

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Section V. **Investigation of Applications.**

Whenever a county department receives a notification of the dependency of a child or an application for assistance, an investigation and record shall promptly be made of the circumstances in order to ascertain the dependency of the child and the facts supporting the application and in order to obtain such other information as may be required by the rules of the state department.

Investigation.

The investigation shall include a visit to the home of the child and of the person who will have the custody of the child during the time assistance is granted, unless a county staff worker or member of the county welfare board shall have personal knowledge of such home. All such investigations shall be conducted by the staff workers (or investigators) of the county department.

Visiting the home.

Such investigations shall also contain information and recommendations from any available officials in the county representing child welfare services and nurses representing the child welfare division of the state board of health.

Information and recommendations from certain officials.

Section VI. **Granting of Assistance and Amount of Assistance.**

Upon the completion of such investigation the county public welfare board shall decide whether the child is eligible for assistance under the provisions of this act, and determine in accordance with the rules and regulations of the state department the amount of such assistance and the date on which such assistance shall begin. The county department shall notify the person having custody of the child of its decision. Such assistance shall be paid monthly or more often to the person having custody of the child. The county public welfare board shall base its decision in regard to such assistance upon the recommendations in the investigation report, if such recommendations are according to the rules and standards of the state department.

County board to decide eligibility and fix amount of assistance.

Notice of decision.

Assistance payments.

Basis of decision.

The amount of assistance which shall be granted for any dependent child shall be determined by the county board with due regard to the resources and necessary expenditures of the family and the conditions existing in each case and in accordance with the rules and regulations made by the state department, and shall be suffi-

Determination of amount of assistance.

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cient, when added to all other income and support available to the child, to provide such child with a reasonable subsistence compatible with decency and health.

Section VII. **County Share of Participation.**

County share of participation.

Each county department shall reimburse the state department in the amount of one-half of the approved aid to dependent children grants after the share provided by the federal government is deducted to persons in the county each month. Such reimbursements shall be credited to the aid to dependent children account of the state department.

Section VIII. **Periodic Reconsideration and Changes in Amount of Assistance.**

Reconsideration of grants.

All assistance grants made under this part shall be reconsidered by the county department as frequently as may be required by the rules of the state department. After such further investigation as the county department may deem necessary or the state department may require, the amount of assistance may be changed or assistance may be entirely withdrawn if the state or county departments find that the child's circumstances have altered sufficiently to warrant such action.

Section IX. **Removal to Another County.**

Removal to another county.

Any child qualified for and receiving assistance pursuant to the provisions of this part in any county in this state who moves or is taken to another county in this state shall be entitled to receive assistance in the county to which he has moved or is taken and the county department of the county from which he has moved shall transfer all necessary records relating to the child to the county department of the county to which he has moved. The county from which the child moves shall pay the county share of the assistance for a period of six (6) months.

Obligation of county from which child moves.

PART V.

TO PROVIDE FOR AID TO NEEDY BLIND INDIVIDUALS IN CONFORMITY WITH TITLE X OF THE FEDERAL SOCIAL SECURITY ACT OF 1935, OR AS AMENDED.

Definitions.

Section I. **Definitions.** As used in this title.

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(a) "Aid to blind", (or assistance) means money payments to blind persons in need. "Aid to blind."

(b) "Supplementary services" means services other than money payments. "Supplementary services."

(c) "Ophthalmologist" means a physician licensed to practice medicine in the State of Montana and who is actively engaged in the treatment of diseases of the human eye. "Ophthalmologist."

Section II. **Administration.**

(a) The state department of public welfare is hereby authorized and is charged with the general administration and supervision of aid to blind under the powers, duties and functions as prescribed in Part I of this act. Administration.

(b) The county department of public welfare shall be charged with the local administration and supervision of aid to blind, subject to the powers, duties and functions prescribed for the county department in Part I of this act. Local administration.

(c) It is hereby mandatory and required that the state plan and operation of aid to the blind shall be in effect in each and every county of the state and the administration and supervision of aid to the blind shall be uniform throughout the several counties of the state. Uniform state plan.

(d) The state department of public welfare shall have printed and distribute copies of this act to all county welfare departments and shall prescribe the form of and print and supply to the county welfare departments blanks of applications, reports and such other forms as may be necessary in relation to aid to the blind. State to supply printed copies of act and blank forms.

(e) All rules and regulations of the state department of public welfare made under this act shall be binding upon the county departments of public welfare. The state board of public welfare shall make such rules and regulations and take such action as may be necessary or desirable for carrying out the provisions of this Part. County bound by rules of state department.

(f) The state department shall cooperate with the federal government in matters of mutual concern pertaining to assistance to the blind, including the adoption of such methods of administration as are found by the federal government to be necessary for the efficient operation of the plan for such assistance. State to cooperate with federal government.

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Reports to federal government.

(g) The state department shall make such reports in such forms and containing such information as the federal government may from time to time require, and comply with such provisions as the federal government may from time to time find necessary to assure the correctness and verification of such reports.

Publication of reports.

(h) The state department shall publish an annual report and such interim reports as may be necessary or required.

Administration in county.

(i) The county department of public welfare shall administer the provisions of this Part in the respective counties subject to the rules and regulations prescribed by the state department pursuant to the provisions of this Part.

Procedure for medical examination.

(j) The state department shall designate the procedure to be followed in securing a competent medical examination for the purpose of determining blindness in the individual applicant for assistance.

Amount of applicant's visual acuity.

(k) The state department shall promulgate rules and regulations stating, in terms of ophthalmic measurements, the amount of visual acuity which an applicant may have and still be eligible for assistance under this Part.

State department to designate examiners.

(l) The state department shall designate a suitable number of ophthalmologists, duly licensed to practice medicine in Montana and actively engaged in the treatment of diseases of the human eye, to examine applicants and recipients of assistance to the blind.

Fees for examinations.

(m) The state department shall fix and pay to ophthalmologists fees for examinations of applicants.

State to develop or cooperate with other agencies.

(n) The state department shall develop or cooperate with other agencies in developing measures for the prevention of blindness, the restoration of eyesight, and the vocational adjustment of blind persons.

Section III. **Eligibility for Aid to the Needy Blind.**

Eligibility for aid.

Aid shall be granted under this Part to any person who:

Vision of applicant.

(a) Has no vision or whose vision, with correcting glasses is so defective as to prevent the performance of ordinary activities for which eyesight is essential and who has been examined and so certified by a fully licensed ophthalmologist.

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(b) Has income which, when added to the contribution in money, substance or service from legally responsible relatives or others, is inadequate to provide a reasonable subsistence compatible with decency and health. Inadequate income.

(c) Is not receiving old age assistance or aid to dependent children for himself/or herself. Not receiving other assistance.

(d) Has resided in and been an inhabitant of the county in which application is made for at least one (1) year immediately preceding the date of the application. Any person otherwise qualified who has resided in the state for five (5) years or more within the nine (9) years immediately preceding the application, one year (1) of which state residence shall have been immediately prior to the date of the application, and who has no legal county residence, shall file his application in the county in which he is residing, and his assistance shall be paid entirely from state funds until he can qualify as having a legal residence in the said county. For the purpose of this act, every person who has resided one (1) year or more in any county in this state shall thereby acquire a legal residence in such county, which he shall retain until he has acquired a legal residence elsewhere, or until he has been absent voluntarily and continuously for one (1) year therefrom. Residence in county. Without legal county residence. How legal county residence acquired.

(e) Is not at the time of receiving assistance an inmate of any public institution, except in the case of temporary medical or surgical care in a hospital. Inmate of institution.

(f) Has not made an assignment or transfer of property for the purpose of rendering himself eligible for assistance under this act at any time within two years immediately prior to the filing of application for assistance pursuant to the provisions of this act. Assignment of property.

(g) Is not because of his physical or mental condition in need of continued care in a public institution. Need of institutional care.

Section IV. **Amount of Assistance.**

The amount of assistance granted any blind person shall, subject to the regulations and standards of the state department, be determined by the county department with due regard to the resources and necessary expenditures of the individual and the conditions existing in each case and shall be sufficient, when added to all other income and support of the recipient, to provide Amount of assistance.

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such person with a reasonable subsistence compatible with decency and health, except that the amount of such assistance shall not exceed the sum of thirty dollars ($30.00) for any one month, provided, however, that the state department may authorize grants or supplementary grants from state funds to be used in supplementary services such as the prevention or treatment of blindness.

Limitation.

Section V. **Application for Assistance.**

Application for assistance.

Application for assistance under this Part shall be made by the person seeking such assistance to the county office of the county department in the county in which the person is a resident, or is establishing residence. The application shall be in writing or reduced to writing in the manner and upon the form prescribed by the state department. Such application shall contain a statement of the amount of property, both personal and real, in which the applicant has an interest and of all income which he may have at the time of the filing of the application, and such other information as may be required by the state department. An inmate of a public institution of a correctional, custodial, or curative character may make an application while in such home or institution, but the assistance, if granted, shall not be paid until after he ceases to be such an inmate. The application form may be filled in and written by a person authorized by the county department. If the applicant is unable to sign his/her name on the application a duly witnessed mark may be used.

Contents of

By inmate of institution.

Section VI. **Investigation of Applications.**

Investigation of applications.

Whenever a county public welfare department receives an application for assistance under this Part, an investigation and record shall be promptly made of the circumstances of the applicant. The object of such investigation shall be to ascertain the facts supporting the application made under this Part and such other information as may be required by the rules of the state public welfare department. The investigation of each application for aid to the blind shall be conducted by the staff workers (or investigators) of the county department.

Examination by an ophthalmologist.

A certified report from the examining physician must be attached to the investigation report. No application shall be approved until the applicant has been examined by an ophthalmologist designated or approved by the

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state department to make such examinations. The examining ophthalmologist shall certify in writing upon forms provided by the state department the findings of the examination.

Report as to rehabilitation.

The investigation report should contain an opinion from the bureau of vocational rehabilitation officials relative to such supplementary services as may be necessary and possible in respect to rehabilitation. Supplementary services in respect to treatment of prevention of blindness may be included in the examining physician's report.

Section VII. **Granting of Aid.**

County board to decide eligibility and amount of assistance.

Upon the completion of such investigation the county board shall decide whether the applicant is eligible for assistance under the provisions of this Part, and determine the amount of such assistance and the date on which such assistance shall begin. The county department shall notify the applicant of its decision. Such assistance shall be paid monthly to the applicant.

Section VIII. **Periodic Reconsideration and Changes in Amount of Assistance.**

Reconsideration of grants.

All assistance grants made under this Part shall be reconsidered by the county department as frequently as may be required by the rules of the state department. After such further investigation as the county department may deem necessary or the state department may require, the amount of assistance may be changed or assistance may be entirely withdrawn if the state or county departments find that the person's circumstances have altered sufficiently to warrant such action.

Re-examination of recipient.

A recipient shall submit to a re-examination as to his eyesight when required to do so by the state department. He shall also furnish any information required by the state department.

Section IX. **Expenses for Treatment.**

Supplementary services in aid of vision.

On the basis of the findings of the ophthalmologist's examination, supplementary services may be authorized by the state department to any applicant or recipient who is in need of treatment either to prevent blindness or to restore his eyesight whether or not he is blind, if he is otherwise qualified for assistance under this

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Part. The supplementary services may include necessary traveling and other expenses to receive treatment from a hospital or clinic designated by the state department.

Section X. **County Share of Participation.**

County share of participation.

Each county department shall reimburse the state department in the amount of sixteen and two-thirds (16-2/3) per centum of the approved aid to blind grants to persons in the county each month. Such reimbursements shall be credited to the aid blind account of the state department.

Section XI. **Change of Residence of Person Receiving Aid to Blind.**

Recipient moving to another county.

Any person qualified for and receiving assistance hereunder in any county in this state who removes to another county in the state and who shall give evidence beforehand to the county board relative to the necessity of such move, shall be entitled to receive assistance under the provisions of this part after a six (6) months residence in the county to which such person has removed, and the county of first residence of such person shall continue his assistance for six (6) months and until the aforesaid residence has been established by him in the second county.

Obligation of county of first residence.

Section XII. **Recovery From a Recipient.**

Recipient becoming possessed of additional property or income.

If at any time during the continuance of aid to blind assistance the recipient thereof becomes possessed of any property or income in excess of the amount stated in the application, it shall be the duty of the recipient immediately to notify the county department of the receipt or possession of such property or income and the county department may, after investigation, either cancel the assistance or alter the amount thereof in accordance with the circumstances.

County may alter or cancel assistance.

Assistance in excess of need recoverable.

Any assistance paid after the recipient has come into possession of such property or income and in excess of his need shall be recoverable by the state as a debt due to the state.

Section XIII. **Assistance May Be Paid to Guardian.**

Guardian for irresponsible recipient.

If the person receiving aid to blind is, in the opinion of the county public welfare department, found incapable

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of taking proper care of himself or his money, the county public welfare board may take the necessary legal arrangements for the appointment of a guardian, and shall then direct that the aid to blind payments be paid to the guardian for the benefit of such irresponsible recipient.

Payments to guardian.

PART VI.

TO PROVIDE FOR SERVICES FOR CRIPPLED CHILDREN AND CHILD WELFARE SERVICES, IN CONFORMITY WITH TITLE V, PARTS 2 AND 3, OF THE FEDERAL SOCIAL SECURITY ACT OF 1935, OR AS AMENDED, AND TRANSFERRING THE POWERS AND DUTIES OF THE STATE BUREAU OF CHILD PROTECTION AND THE ORTHOPEDIC COMMISSION TO THE AUTHORITY AND SUPERVISION OF THE STATE DEPARTMENT OF PUBLIC WELFARE, AND REPEALING SECTIONS OF LAW IN CONFLICT HEREWITH.

Section I. **Effective Date.**

Since the bureau of child protection and the orthopedic commission are operating federal-state programs on established budgets which expire at the end of the fiscal year on June 30th, 1937, it is hereby provided that the powers and duties of said state bureau and commission will not be transferred to the department of public welfare until July 1st, 1937.

Effective date.

Section II. **Definitions: As used in this Part.**

Definitions.

(a) Services for Crippled Children means: To extend, and improve services (especially in rural areas and in areas suffering from severe economic distress) for locating crippled children, and for providing medical, surgical, corrective and other services and care, and facilities for diagnosis, hospitalization and after care for children who are crippled or who are suffering from conditions which lead to crippling, and cooperation with medical, health and nursing agencies providing for vocational rehabilitation of physically handicapped children.

"Services for crippled children."

(b) Child welfare services means: The establishing, extending and strengthening of child welfare services (especially in predominantly rural areas) for the protection and care of homeless, dependent and neglected children, and children in danger of becoming delinquent.

"Child welfare service."

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"Child welfare worker."

(c) Child welfare worker means: Staff personnel who have had education and training in the field of child welfare and who are qualified and accepted as such in conformity with the standards established by the state department of public welfare.

Section III. **Organization and Administration of Activities.**

Organization and administration.

Services for crippled children, child welfare services and child protection functions shall be organized under and administered and supervised by the state department of public welfare, subject to the general administration and regulations of the state department and the powers and duties thereof as established in Part I, and providing for cooperation and exchange of services with the child welfare division of the board of health and vocational rehabilitation bureau.

Section IV. **Powers and Duties of the State Department.**

Powers and duties of state department.

Subject to the authority and regulations of the state department and in cooperation with the federal children's bureau, the state department shall:

To perform duties of superseded agencies.

(a) Perform the duties and have all the powers formerly invested in and exercised by the state bureau of child protection and the Montana orthopedic commission and the state board of charities and reforms.

Personnel.

(b) Select and appoint, from a qualified list, such personnel as are necessary to efficiently supervise and perform the purposes of this Part.

Rules and regulations.

(c) Subject to the approval of the state board, make such rules and regulations as are necessary to carry out the purposes of this Part.

Child welfare activities.

(d) Administer or supervise all child welfare activities of the state except such child welfare activities as are administered by the state board of health.

Child welfare services.

(e) Make provisions for establishing, extending and strengthening child welfare services for the protection and care of homeless, dependent and neglected children and children in danger of becoming delinquent, including those in public and private institutions.

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(f) Make provisions for extending and improving services for locating crippled children and providing medical, surgical, corrective and other services and facilities for diagnosis, hospitalization and after care for children who are crippled or who are suffering from conditions which lead to crippling. Services for crippled children.

(g) Enforce all laws pertaining to children and take the initiative in all matters involving the interest of illegitimate, dependent, neglected and delinquent children where adequate provision therefor has not been made by law; and to use funds available for cases where special medical or material assistance is necessary to rehabilitate subnormal or physically handicapped children and where it is not otherwise provided for by law; and cooperate for the purposes hereof with all reputable child helping and child placing agencies. To enforce laws. Special assistance to rehabilitate children.

(h) License and inspect infants' homes, maternity homes, and child placing agencies.

(i) Supervise the importation and exportation of children.

(j) Keep records of and supervise the care of dependent, neglected, and delinquent children placed in foster family homes and institutions until such children are legally adopted or reach their majority. Care of children in foster placements.

(k) Nothing in this act shall be construed as authorizing any state or county official, agent or representative, in carrying out any of the provisions of this act, to take charge of any child over the objection of either of the parents of such child, or the person standing in loco parentis to such child, except pursuant to a proper court order. Taking charge of child over objection.

(l) Assist other departments, agencies and public and private institutions of the state and federal government when so requested, by performing services in conformity with the purposes of this Part, and particularly such services and duties as may be assigned to it by any state board composed of state officers; provided such services and duties are legally within the duties of such state board. To assist other agencies.

Section V. **Duties of County Board.**

The county board of public welfare shall supervise the local administration of child welfare services under County board to supervise local administration.

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the powers and duties set forth in Part I, and subject to the rules and regulations of the state department.

Who to handle work of child welfare services in county.

Regular staff workers of the county department will handle the work of child welfare services in the county. Where such personnel are not qualified to handle the work of child welfare services, the state department will arrange for the services of such special child welfare workers as are necessary.

PART VII.

PROVIDING THE SAVING CLAUSE, THE REPEAL OF CONFLICTING SECTIONS AND THE EFFECTIVE DATE.

Short title of act.

Section I. This act may be cited as the "Public Welfare Act".

Repealing clause.

Section II. That sections 325 to 335 inclusive 335.1 - 335.2 - 335.3 - 335.4 - 335.5 - 335.6 - 335.7 - 335.8 - 335.9 - 335.10 - 335.11 - 335.12 - 335.13 - 335.14 - 335.15 - 335.16 - 335.17 - 335.18 - 335.19 - 335.20 - 335.21 - 335.22 - 335.23 - 335.24 - 335.25 - 335.26 - 335.27 - 335.28 - 335.29 - 335.30 - 335.31 - 335.32 - 335.33 - 335.34 - 335.35 - 335.36 - 335.37 - 335.38 - 335.39 - 335.40 - 335.41 - 335.42 - 335.43 - 335.44 - 335.45 - 10480 - 10481 - 10482 - 10483 - 10484 - 10485 - 10486 - 10487 of the Revised Codes of Montana 1935, be, and the same are hereby repealed.

Repealing clause.

Section III. That Sections 2511 - 2512 - 2513 - 2514 - 336 - 337 - 338 - 339 - 340 - 341 - 342 - 343 - 344 - 345 - 346 - 347 of the Revised Codes of Montana 1935 be, and the same are hereby repealed, such repeal to be in full force and effect from and after the first day of July 1937.

Effective date.

Declaration of legislative intent.

Section IV. **Validity.** The legislature hereby declares that it would have passed this act and each and every Part, section, sub-section, sentence, clause and phrase thereof, irrespective of the fact that any one or more of the Parts, sections, sub-sections, sentences, clauses or phrases thereof may be declared unconstitutional, or in violation of the constitution of the State of Montana or in conflict with the federal social security act or any rules, regulations supplementary or amendatory thereof.

Effective date of act.

Section V. That this act shall be in full force and effect from and after its passage and approval, except so much there of as may hereinbefore be designated to

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be in effect from and after the first day of July 1937 and which said Parts shall be in full force and effect from and after the first day of July 1937.

PART VIII.

APPROPRIATIONS, DISPOSITION OF FUNDS AND DISBURSEMENTS.

Section I. **Receipt of Funds.**

State treasurer designated fiscal officer.

The treasurer of the state of Montana is hereby designated as the appropriate fiscal officer of the state to receive federal funds. All money appropriated by the legislature for public welfare purposes, all money received from the United States government for public welfare purposes, and all money received from any other source for the purposes set forth in the public welfare act shall be paid into the state treasury and constitute a special fund to be designated as the public welfare fund.

Section II. **Source of State Appropriation.**

Source of appropriation.

For carrying out the duties and obligations of the state department, for the performance of welfare services of the state, and for matching such federal funds as may be available for the aforesaid welfare services, the legislature shall make appropriation put out of the general fund of the state for the various and separate activities of the state department and county departments of public welfare.

Section III. **Method of Disbursement.**

Method of disbursement.

The state department of public welfare shall disburse all public assistance grants and costs of administration as provided for in each Part of this act. The state public welfare department shall establish (or open) a bank account or accounts, properly safeguarded under state law and rules of the state department. Such account or accounts shall be subject to orders drawn by the state department for the payment of assistance grants and costs of administration of the state and county departments.

Fund provided with imprest fund.

From the general appropriation for the public welfare act, the state department shall be provided with an imprest fund of five hundred thousand two hundred and fifty dollars ($500,250.00), quarterly, for which it will

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be responsible and liable. The imprest fund will be divided among such specific accounts as may be necessary or desirable for the state department to establish.

How imprest fund to be replenished.

As payments of grants and administrative costs are made from this imprest fund, it shall be replenished from the public welfare fund by the state treasurer, upon presentation of claims prepared by the state welfare department and approved by the state board of examiners and covered by warrants issued by the state auditor, and the state treasurer is hereby directed to disburse the monies appropriated by the act upon such warrants.

Section IV. **Appropriations.**

Appropriation for 1937-'38.

(a) That the sum of two million and one thousand dollars ($2,001,000.00) be and the same is hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the administrative costs and other purposes of this act for the year beginning March 2, 1937, and ending March 1, 1938.

Appropriation for 1938-'39.

(b) That the sum of two million and one thousand dollars ($2,001,000.00) be and the same is hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the administrative costs and other purposes of this act for the year beginning March 2, 1938, and ending March 1, 1939.

Budget act inapplicable.

(c) That the appropriations hereinabove provided be deemed to be held valid notwithstanding the provisions of the budget act.

Amounts earmarked.

(d) Without hereby limiting the powers of the state board of public welfare, as in this act otherwise provided, the amounts appropriated in this section and paid to the public welfare fund from the state treasury shall be earmarked for the following purposes:

For old age assistance.

(1) For the purpose of old age assistance the sum of eight hundred thousand dollars ($800,000.00) for each annual period as in this section above set forth.

For aid to dependant children.

(2) For the purpose of aid to dependent children the sum of three hundred thousand dollars ($300,000.00) for each annual period as in this section above set forth.

For blind.

(3) For the purpose of the needy blind the sum of fourteen thousand dollars ($14,000.00) for each annual period as in this section above set forth.

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(4) For the purpose of service to crippled children the sum of thirty thousand dollars ($30,000.00) for each annual period as in this section above set forth. For crippled children.

(5) For the purpose of child welfare services the sum of fifteen thousand dollars ($15,000.00) for each annual period as in this section above set forth. For child welfare.

(6) For the purposes of general relief and contingencies the sum of six hundred thousand dollars ($600,000.00) for each annual period as in this section above set forth. For general relief.

Section V. **Transfer of Funds from Specific Accounts.**

It is hereby provided that such sum of any specific account as shall not be needed for the purpose for which the account is earmarked may be transferred back to the public welfare fund and used in such other forms of public assistance as may be needed and necessary and as the state board of public welfare may determine. Transfer of funds.

Approved March 4, 1937.

CHAPTER 83

An Act to Amend Section 2343.1 and Section 2343.3 of Chapter 210 of the Revised Codes of Montana, 1935, Relating to Electrical Energy Producers' License Tax and the Distribution of Said Tax.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 2343.1 and 2343.3 of Chapter 210 of the Revised Codes of Montana, 1935, be, and the same are hereby amended to read as follows:

"Section 2343.1. That in addition to the license tax now provided by law, each and every individual, firm, partnership, common law trust, corporation, association or other organization now engaged in the generation, manufacture or production of electricity, and electrical energy in the State of Montana, either through water power or by any other means, for barter, sale or exchange and hereinafter referred to as the "producer", shall on or before the fifteenth (15) day of each calendar month beginning with the fifteenth (15) day of April, Producer shall render monthly statement of sales.

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1934, render a statement to the state board of equalization of the State of Montana, showing the gross amount of money received on account of sales of electricity and electrical energy during the preceding calendar month without any deduction, and shall pay a license tax thereon in the sum of one per cent (1%) of such gross amount as shown on such statement in the manner and within the time hereinafter provided."

License tax, amount of.

"Section 2343.3. The state board of equalization shall receipt therefor and promptly turn same over to the state treasurer, and the state treasurer shall distribute the same to March 1, 1937, as follows: five per cent (5%) thereof to the relief fund, ninety per cent (90%) thereof to the general fund and five per cent (5%) thereof to the common school interest and income fund and after March 1, 1937, the same shall be distributed as follows: twenty-five per cent (25%) to the general fund, twenty-five per cent (25%) to the common school interest and income fund, twenty-five per cent (25%) to the social security fund and twenty-five per cent (25%) to the state public school general fund. Taxes not paid on the due date shall become delinquent and shall bear interest from said due date at the rate of twelve per cent (12%) per annum."

Distribution of moneys.

Interest on delinquency.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved March 5, 1937.

CHAPTER 84

An Act to Regulate, License and Authorize the Sale of Liquor at Retail in the State of Montana; Authorizing, Empowering and Directing the Montana Liquor Control Board to Issue Retail Liquor Licenses to Persons Qualified Under This Act to Sell Liquor at Retail; Defining Certain Words and Terms Used in This Act; Providing for a License Tax and Fixing the Amount of License Fees to Be Paid for Said License; Authorizing the Montana Liquor Control Board to Charge and Collect an Excise Tax on All Liquor Sold by It; Prescribing the Hours During Which Liquor May Be Sold and the Place, Manner and Conditions for the

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Sale Thereof; Authorizing the Sale of Liquor to Licensees by State Liquor Stores; Prohibiting the Sale and/or Traffic in Liquor Other Than Purchased at State Liquor Stores, and Prohibiting the Sale of Liquor to Minors and Other Designated Persons; Authorizing the Montana Liquor Control Board to Prescribe and Promulgate Rules and Regulations With Statutory Effect; Providing for the Suspension and Revocation of Licenses; Providing for Hearings by the Board and Appeals From Decisions Thereof; Providing for Local Option in the Counties in the State and Holding Elections in Respect Thereto; Granting to the Montana Liquor Control Board Strict Regulation and Control of Licenses and Licensees and Declaring the Policy of Law in the Sale of Liquor; Providing for Allocation of Revenue Derived From Licenses and Excise Taxes; Declaring This Act to Be an Emergency Measure; and Providing Penalties for the Violation of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Declaration of public policy.

It is hereby declared as the policy of the state that it is necessary to further regulate and control the sale and distribution within the state of alcoholic beverages, and to eliminate certain illegal traffic in liquor now existing, and to insure the entire control of the sale of liquor in the Montana liquor control board, it is advisable and necessary, in addition to the operation of the state liquor stores now provided by law, that the said board be empowered and authorized to grant licenses to persons qualified under this act, to sell liquor purchased by them at state liquor stores at retail posted price in accordance with this act and under rules and regulations promulgated by the said board, and under its strict supervision and control, and to provide severe penalty for the sale of liquor except by and in state liquor stores and by persons licensed under this act. The restrictions, regulations and provisions contained in this act are enacted by the legislature for the protection, health, welfare and safety of the people of the state.

Definitions.

Section 2. The following words and phrases used in this act shall be given the following interpretation:

"Board."

1. "Board" means the Montana liquor control board.

"Club."

2. "Club" means a national fraternal organization, except college fraternities, or an association of individ-

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uals organized for social purposes and not for profit, with a permanent membership and an existence of two years prior to making application for license with permanent quarters or rooms.

"State liquor store."

3. "State liquor store" means a liquor store established and operated by the Montana liquor control board under the laws of Montana.

"License."

4. "License" means a license issued by the Montana liquor control board to a qualified person, under which it shall be lawful for the licensee to sell and dispense liquor at retail as provided in this act.

"Licensee."

5. "Licensee" means the person to whom a license is issued.

"Person."

6. "Person" means every individual, co-partnership, corporation, hotel, restaurant, club and fraternal organization, and all licensed retailers of liquor, whether conducting the business singularly or collectively.

"Liquor."

7. "Liquor" means all kinds of liquor sold by and/or in a state liquor store.

"Interdicted person."

8. "Interdicted person" means a person to whom the sale of liquor is prohibited under the laws of Montana.

"Rules and Regulations."

9. "Rules and regulations" means rules and regulations made and promulgated by the Montana liquor control board in accordance with the provisions of this act.

Other words and phrases.

All other words and phrases used in this act, the definition of which is not herein given, shall be given the ordinary meaning.

Board to issue licenses for sale of liquor at retail.

Section 3. The Montana liquor control board is hereby empowered, authorized and directed to issue licenses to qualified applicants as herein provided, whereby the licensee shall be authorized and permitted to sell liquor at retail, and upon the issuance of such license the licensee therein named shall be authorized to sell liquor at retail but only in accordance with the rules and regulations promulgated by the said board and the provisions of this act. Qualified applicants shall include persons, hotels, clubs, fraternal organizations and railway systems.

License fees.

Section 4. Each licensee licensed under the provisions of this act shall pay an annual license fee as follows:

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For each license in cities with a population of ten thousand (10,000) or more and within a distance of five (5) miles thereof, outside of an incorporated city or town, six hundred dollars ($600.00) per annum. For each license in cities with a population of more than five thousand (5,000) and less than ten thousand (10,000) and within a distance of five (5) miles thereof, outside of an incorporated city or town, four hundred fifty dollars ($450.00) per annum. For each license in cities with a population of more than two thousand (2,000) and less than five thousand (5,000), three hundred dollars ($300.00) per annum. For each license in cities, towns and unincorporated villages and towns, with a population of less than two thousand (2,000), two hundred dollars ($200.00) per annum. Fraternal organizations one hundred dollars ($100.00) per annum.

For each railway system in the State of Montana, three hundred dollars ($300.00) per annum.

The license fees herein provided for are exclusive of and in addition to other license fees chargeable in the State of Montana for the sale of liquor, beer and malt beverages.

Application for license.

Section 5. Prior to the issuance of a license as herein provided, the applicant shall file with the Montana liquor control board an application in writing, signed by the applicant, and containing such information and statements relative to the applicant and the premises where the liquor is to be sold, as may be required by the Montana liquor control board. The application shall be verified by the affidavit of the person making the same before a person authorized to administer oaths. If any false statement is made in any part of said application, the applicant, or applicants, shall be deemed guilty of misdemeanor and upon conviction thereof the license, if issued, shall be revoked and the applicant, or applicants, subjected to the penalties provided by law.

False statement deemed misdemeanor.

Penalty.

Investigation of applications.

Section 6. Upon receipt of an application for a license under this act, accompanied by the necessary license fee and bond, the board shall within thirty (30) days thereafter, cause to be made a thorough investigation of all matters pertaining thereto, and shall determine whether such applicant is qualified to receive a license and his premises are suitable for the carrying on of the business,

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and whether the requirements of this act and the rules and regulations promulgated by the board are met and complied with.

License to sell liquor in railroad dining and buffet cars.

Section 7. Any railroad operating a dining and buffet car in connection with regular operated train service desiring a license to sell liquor under the provisions of this act in said dining and buffet car, shall first apply to the board for a license so to do, accompanying the application with the license fee herein prescribed. Upon being satisfied from said application, or otherwise, that the applicant is qualified, the board shall issue a license to such railroad for the sale of liquor by such carrier in all of its dining and buffet cars, which shall at all times be prominently displayed in the cars where liquor is served. Upon the payment of the one license fee herein required to be paid, duplicates of said license shall be provided by the board, to be posted in the different cars operated within the state under the one license.

Contents of license.

Section 8. Every license issued under this act shall set forth the name of the person to whom issued, the location by street and number of the premises where the business is to be carried on under said license, and such other information as the board shall deem necessary. If issued to a partnership the names of the persons conducting the business. Such license shall be signed by the licensee, shall be non-transferable except and only with the consent of the board, shall be posted in a conspicuous place on the premises in respect to which it is issued and shall be exhibited to any duly authorized representative of the board whenever the same is requested. Every license issued under the provisions of this act is separate and distinct, and no person, except the licensee therein named, shall exercise any of the privileges granted thereunder, and all licenses are applicable only to the premises in respect to which they are issued. All licenses shall expire on January first of each year.

Provisions governing license.

Expiration.

One license per year.

Section 9. No person shall be granted more than one license in any year. No person, club, or fraternal organization shall be entitled to a license under this act unless such person, club, or fraternal organization shall have a beer license issued under the laws of Montana.

Beer license required.

Persons disqualified.

Section 10. No license shall be issued by the board to:

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1. A person who has been convicted of being the keeper or is keeping a house of ill fame. Keeper of house of ill fame.

2. A person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality, or the laws of the federal government or the State of Montana. Panderer.

3. A person whose license issued under this act has been revoked for cause. Person whose license has been revoked.

4. A person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application. No renewal to ineligble person.

5. A person who is not qualified or whose premises do not conform to the provisions of this act, or with the rules and regulations promulgated by the board. Person not qualifed or premises unfit.

6. A person who is not a citizen of the United States and who has not been a citizen of the State of Montana for at least five (5) years and who has not been a citizen of the county in which the license is to be issued for at least one (1) year. Citizenship requirements.

Section 11. No licensee shall sell, deliver or give away, or cause or permit to be sold, delivered or given away, any liquor to: Restrictions as to sale by lciensee.

1. Any minor actually under the age of twenty-one (21) years, unless such minor is accompanied by his parent or guardian. Minor.

2. Any intoxicated person or any person actually, apparently or obviously intoxicated. Intoxicated person.

3. A habitual drunkard. Habitual drunkard.

4. An interdicted person. Interdicted person.

Section 12. No liquor shall be sold, offered for sale or given away upon any premises licensed to sell liquor at retail during the following hours: Restriction as to hours.

(a) Sunday, from two a. m. to one p. m.;

(b) On any other day between two a. m. and eight a. m.;

(c) On any day of a general or primary election during the hours when the polls are open, excepting bond elections. When any city, or incorporated or unincor-

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porated town has any ordinance further restricting the hours of sale of liquor, such restricted hours shall be the hours during which the sale of liquor at retail shall not be permitted within the jurisdiction of any such city or town.

Premises in proximity to a church or school.

Section 13. No license shall be granted for any premises which shall be on the same street or avenue and within six hundred feet of a building occupied exclusively as a church, synagogue or other place of worship, or school, except a commercially operated school; the measurements to be taken in a straight line from the center of the nearest entrance of such school, church, synagogue or other place of worship to the center of the nearest entrance of the premises to be licensed; except, however, that no license shall be denied because such restriction may apply to any premises so located which are maintained as a bona fide hotel, restaurant, railway car, club or fraternal organization or society except similar places of business established and in actual operation for one year prior to the passage and approval of this act.

Exception.

Board to sell to licensees.

Section 14. The board is hereby authorized to sell through its stores all kinds of liquor, wine and cordials kept in stock to licensees licensed under this act at the posted price thereof in the store in which said liquor is sold. All sales shall be upon a cash basis. The posted price as used herein shall mean the retail price of such liquor as fixed and determined by the Montana liquor control board and in addition thereto an excise tax as in this act provided.

"Posted price."

Board to collect excise tax on liquor sold.

Section 15. The Montana liquor control board is hereby authorized and directed to charge, receive and collect at the time of the sale and delivery of any liquor as authorized under any provision of the laws of the State of Montana an excise tax at the rate of fifty cents (50c) per gallon or proportional part thereof on all liquor so sold and delivered. The Montana liquor control board shall retain the amount of such excise tax received in a separate account and shall deposit with the state treasurer, to the credit of the general fund, such sums so collected and received not later than the tenth day of each and every month.

Invoice of liquor sold to licensee.

Section 16. The state liquor store shall upon each and every sale of liquor to any licensee, issue a duplicate invoice of the liquor purchased as provided by said board,

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a copy of which shall be delivered to the licensee and one copy retained at such store. The invoice shall show the date of purchase, name of employee making the sale, the quantity of each kind of liquor purchased, the price paid therefor, the name of the licensee and the number of the license, with such other information as may be required by the board. The licensee shall keep and retain his duplicate invoice of all purchases made by him from the state liquor store, which shall at all times be subject to inspection by the duly authorized officers, agents and employees of the board.

Licensee forbidden to sell liquor not purchased from state store.

Section 17. It shall be unlawful for any licensee to sell or keep for sale and/or have on his premises for any purpose whatever, any liquor except that purchased from the state liquor store, and any licensee found in possession of, or selling and keeping for sale, any liquor which was not purchased from a state liquor store, shall, upon conviction, be fined not less than five hundred dollars ($500.00) nor more than fifteen hundred dollars ($1500.00), or by imprisonment for not less than three (3) months nor more than one (1) year, or both such fine and imprisonment, and if the board shall be satisfied that any such liquor was knowingly sold or kept for sale within the licensed premises by such licensee, or by his agents, servants or employees, it shall be mandatory that said board immediately revoke the license of said licensee.

Penalty.

Penalty for sale without license.

Section 18. Any person, who has not been issued a license under this act, who shall sell or keep for sale any alcoholic liquor, shall be guilty of a felony and upon conviction thereof shall be fined not less than one thousand dollars ($1000.00) nor more than five thousand dollars ($5,000.00), or be imprisoned in the state prison for not less than one (1) nor more than five (5) years, or both such fine and imprisonment.

Licensee forbidden to sell at less than posted price.

Section 19. It shall be unlawful for any licensee under the provisions of this act to resell any liquor purchased by such licensee from a state liquor store for a sum less than the posted price established by the said store and paid by the licensee therefor.

Employees of board forbidden to deal in liquor.

Section 20. No member or employee of the board, including those engaged in the sale of liquor at the various state liquor stores, shall be directly or indirectly engaged in dealing in liquor whether as owner, part

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owner, member of a syndicate, share holder or otherwise, whether for his own benefit or in a fiduciary capacity for others.

Officers may seize unlawful liquor.

Section 21. Any sheriff, police officer, or inspector appointed under this act, who shall find any alcoholic beverages, liquor or moonshine which is kept or held by any person for sale or other disposition in violation of this act, may forthwith seize and remove the same, and keep the same as evidence, and upon conviction of a person for violation of the provisions hereof, the said liquor and all packages containing the same shall be forfeited to the State of Montana, and in addition the person so violating the law shall be subject to the penalties herein prescribed.

Board to make rules and regulations.

Section 22. For the purpose of the administration of this act the board shall make, promulgate and publish such rules and regulations as the said board may deem necessary for carrying out the provisions of this act and for the orderly and efficient administration hereof, and except as may be limited or prohibited by law and the provisions of this act, such rules and regulations so made and promulgated shall have the force of statute. Every licensee shall advise himself of such rules and regulations, and ignorance thereof shall be no defense. Without limiting the generality of the foregoing provision, the said board shall be empowered and it is made its duty to prescribe forms to be used in the administration of this act, the proof to be furnished and the conditions to be observed in the issuance of licenses, prescribing forms or records to be kept of the sale of liquor by stores, prescribing notices required by this act or the regulations thereof, and the manner of giving and serving the same, prescribing, subject to the provisions of this act, the conditions and qualifications necessary to obtain a license, the books and records to be kept by the licensee, the form of returns to be made by them, and providing for the inspection of such licensed premises, specifying and describing the place and manner in which the liquor may be lawfully kept or stored, covering the conduct, management and equipment of premises licensed to sell liquor and make regulations respecting the sale and consumption of liquor in clubs, hotels and other places of business of licensees.

Forms and records.

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Investigation of licensees.

Section 23. The board may upon its own motion, and shall upon a written verified complaint of any other person, investigate the action and operation of any licensee hereunder, and shall have power to temporarily suspend and/or permanently revoke a license issued under this act for violation of the provisions of this act or any rule or regulation promulgated by the board.

Procedure as to charges aganist licensee.

Section 24. Upon the filing with the board of a verified complaint charging the licensee with the commission of any act which would be cause for the suspension or revocation of a license, within one year prior to the date of filing said complaint, the above said board shall forthwith issue a citation directing the licensee to appear before the said board within ten days after the date of the service of said citation and, by filing his verified answer to the complaint, show cause, if any, why his license should not be suspended or revoked. Service of the citation may be effected by mailing a true copy thereof with a true copy of the complaint by registered mail addressed to the licensee at his last address of record or by the sheriff of the county in which the licensee resides. Failure of the licensee to answer shall be deemed an admission by him of the truthfulness of the charge made and thereupon the said board shall be authorized to forthwith suspend or revoke the license.

Hearing on charges.

Section 25. Upon the filing of the answer of the board shall fix the time and place of the hearing on the charges made, which hearing shall be in the county where the licensee resides, and not less than five (5) days notice of said hearing shall be given to the complainant and licensee. The notice of hearing shall be served in the same manner as is the citation herein provided for. With the notice of the hearing to the complainant, there shall be attached a true copy of the answer of the licensee. If either party has appeared by counsel the notice shall be given in like manner to the counsel of said party. Upon the hearing the board shall hear the evidence presented, which may be in the form of oral testimony or affidavits, or both. After the hearing has been concluded the said board shall, within ten days, render its decision in writing, stating the reasons therefor. Notice of the decision, with copy thereof, shall be served upon the parties, or their counsel, in the manner herein provided as to other notices. When the board shall have revoked

Decision by board.

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or cancelled a license previously issued by it, the board shall notify the licensee in writing by registered mail, to the address of such licensee, of its action, giving reasons thereof, and thereupon such licensee shall have the right to appeal to the district court of the county in which he shall reside, from the action of the board, by filing a notice of appeal with the clerk of the district court and paying the filing fee required to commence a suit or action in the district court, which appeal must be so taken within thirty (30) days after the order made and entered by the board. The trial shall be had before the district court upon the record presented to the board, and upon which its decision was rendered, and there shall not be any additional evidence introduced or anything in the nature of a trial de novo. Pending decision on appeal the licensee must file a good and sufficient bond in the sum of two thousand dollars ($2,000.00), payable to the State of Montana, conditioned that he will pay all costs and be responsible for any and all violations of the law on his premises, pending final disposition of the appeal.

Appeal to district court.

Trial before district court.

Appeal bond.

Officers may examine premises.

Section 26. The board or any duly authorized representative thereof, or the sheriff of any county, shall have the right at any time to make an examination of the premises of such licensee as to whether the law of Montana and the rules and regulations of the said board are being complied with, and shall also have a right to inspect cars of any railway system licensed under this act.

Board may renew suspended or revoked license.

Section 27. After suspension or revocation of a license the board shall have the power to renew the same if in its discretion a proper showing therefor has been made.

Cities or counties may impose license fees.

Section 28. The city council of any incorporated town or city, or the county commissioners outside of any incorporated town or city, may provide for the issuance of licenses to persons to whom a license has been issued under the provisions of this act, and may fix license fees thereof, not to exceed a sum equal to fifty per cent (50%) of the license fee collected by the board from such licensee under this act.

Disposition of moneys received.

Section 29. All receipts from license fees, fines and penalties collected under the provisions of this act shall be paid to the state treasurer and by him apportioned

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and allocated as follows: Fifty per cent (50%) to the state public school general fund and fifty per cent (50%) to the public welfare fund for the administration of the social security laws.

Effective date of act.

Section 30. The provisions of this act as to the issuance of licenses as herein provided shall be effective thirty (30) days after the passage and approval of this act. In the event that during the said period of thirty (30) days, a duly verified petition in writing signed by not less than thirty-five per centum (35%) of the registered qualified electors of any county file with the board of county commissioners their protest against the issuance of any licenses as herein provided by the Montana liquor control board under the provisions of this act, then the said Montana liquor control board shall not issue any license or licenses within said county, except as herein provided.

Protest by electors in any county.

Election to determine whether or not licenses shall be issued in county.

The board of county commissioners must within five (5) days after the filing of said petition, meet and determine the sufficiency of the petition presented by ascertaining whether or not at least thirty-five per centum (35%) of the signers of said petition are registered electors of the territory or county affected. The board of county commissioners must within ten (10) days after the filing of such petition, if such petition be sufficient therefor make an order calling an election to be held within the county in the manner and at the places of holding an election for county offices in such county. Such election to be held on a day fixed by the board of county commissioners not more than thirty (30) days after the filing of such petition for the purpose of determining whether or not any license for the sale of spirituous liquors may be sold within the limits of the county as provided by the provisions of this act.

Publication of notice of election.

Section 31. The notice of election must be published once a week for four (4) weeks in such newspapers in the county where the election is to be held as the board of county commissioners may think proper.

Ballots.

Section 32. The county clerk must furnish the ballots to be used at such election, as provided in the general election law, which ballots must contain the following words: "Sale of Alcoholic Beverages, Yes", "Sale of Alcoholic Beverages, No", and the elector in order to vote must mark an "X" opposite one of the answers.

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Polling places.

Section 33. The polling places must be established, the judges and other officers to conduct the election must be designated, and the election must be held, canvassed and returned in all respects in conformity to the laws of the state.

Effect of election.

Section 34. If a majority of the votes cast are "Sale of Alcoholic Beverages, Yes", the provisions of this act shall take effect immediately. If a majority of the votes cast are "Sale of Alcoholic Beverages, No", the board of county commissioners must publish the result once a week for four (4) successive weeks in the paper in which the notice of election was given, and at the expiration of the time of the publication of such notice all existing licenses shall be cancelled and it shall thereupon be unlawful to sell, either directly or indirectly, any liquor in such county under penalty of a fine of not more than five hundred dollars ($500.00) or by imprisonment in the county jail for a period not exceeding six (6) months, or by both such fine and imprisonment; provided, however, that nothing herein contained shall be construed to prevent or prohibit the sale of liquor at or by a state liquor store under the liquor control act.

Penalty for unlawful sale of liquor in a county which has voted "no" as to retail sale.

Contest of election.

Section 35. Any election held under the provisions of the act may be contested in the same manner as provided by the general election laws.

Restriction as to date of a second election.

Section 36. If no petition protesting against the issuance of licenses as herein provided be filed with the board of county commissioners within thirty (30) days after the passage and approval of this act, or if a majority of the votes cast at any election held in pursuance of the filing of said petition as herein provided, are "Sale of Alcoholic Beverages, No", then there shall not be submitted to the qualified electors of said county any other or further question as to the sale of alcoholic beverages within said county for a period of two (2) years from and after the date of the filing of said petition protesting the issuance of said license as herein provided with the board of county commissioners.

Business in name of licensee only

Licensee must have U. S. permits.

Section 37. No business shall be carried on under any license issued under this act except in the name of the licensee. No license shall be effective until a permit shall have been first secured under the laws of the United States if such a permit is necessary or is required under such law.

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Penalty for violation of act.

Section 38. Any person violating any of the provisions of this act, shall upon conviction thereof, be deemed guilty of a misdemeanor and punishable by such fine or imprisonment, or both, as provided by law, except as is herein otherwise provided. If any such licensee is convicted of any offense under this act his license shall be immediately revoked.

Revocation of license.

Partial invalidity not to affect remainder of act.

Section 39. If any clause, sentence, paragraph, section or any part of this act shall be declared and adjudged to be invalid and/or unconstitutional, such invalidity or unconstitutionality shall not affect, impair, invalidate or nullify the remainder of this act. This act shall apply to the Montana liquor control board as now composed and existing, and to any board or commission which may hereafter succeed the above said board.

Repealing clause.

Section 40. All acts and parts of acts in conflict hereto are hereby repealed, but this act shall not be construed to repeal or amend any provision or section of the state liquor control act of Montana, except in so far as the same is in conflict with this act.

Section 41. This act, except as herein otherwise specifically provided, shall be in full force and effect from and after its passage and approval.

Approved March 5, 1937.

CHAPTER 85

An Act Authorizing the State to Take Advantage of Federal Activities to Furnish Emergency Relief Employment to Needy Citizens of the State; Creating an Emergency Relief Fund; Providing for the Levy of a Tax to Finance Such Fund; Authorizing Public Bodies to Issue Anticipatory Emergency Relief Fund Warrants; Authorizing the State Land Board to Purchase Such Warrants Under Certain Conditions and Declaring an Emergency.

Be it enacted by the Legislative Assembly of the State of Montana:

Employment situation requires use of available federal and state funds.

Section 1. Whereas the recent unprecedented drought in many sections of Montana, together with the nation-wide economic depression, have brought about an acute employment situation with respect to the citizens of

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Montana, the alleviation of which requires the immediate inauguration and aggressive prosecution of an efficient and economical program of employment which will take advantage of all available federal, state and other funds promptly, to the end that employment of Montana citizens may be augmented to the greatest possible degree, that all federal funds may be used, and that citizens of this state may be removed from public relief rolls and be given gainful employment.

State and subdivisions to cooperate with federal government.

It is hereby declared to be a public policy that this state and all political subdivisions thereof, cooperate with any agency of the federal government in and for the construction, operation and maintenance of any plans and projects in aid of which such federal agency is about to or has expended funds furnished by the federal government, intended for a useful purpose, and calculated to furnish employment and assistance to the needy citizens of this State.

Political subdivisions may furnish materials, etc., for projects.

May issue relief warrants.

How payable.

Section 2. In order to fully and completely carry out a state-wide policy of cooperation by the political subdivisions of the State with any federal agency in the construction, operation and maintenance of any projects sponsored by the State or any county, school district or municipal corporation, as political subdivisions of this State, the county commissioners of any county, the school trustees of any organized school district or the governing board or body of any municipal corporation, is hereby authorized to furnish such materials, equipment, rentals, supplies, and supervision as may be required by any federal agency to be furnished by such political subdivision and the commissioners of the county, the trustees of any organized school district or the governing board or body of any municipality, when sufficient funds are not available, are hereby authorized to issue warrants to be designated relief warrants in payment of such materials, equipment, rentals, supplies, or supervision, payable from the relief fund hereinafter provided when there is no other available fund from which said warrant may be made payable in pursuance of law or payable. This measure contemplates that as in the past, political subdivisions will continue to sponsor projects without recourse to the provisions of this emergency measure where the same can be reasonably so sponsored and that funds available to the political subdivision

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through license taxes or from other sources, and which may be reasonably used for the purpose shall be used by the political subdivision to retire warrants issued under the provisions of this act, and that property taxes as herein authorized to be levied will not be levied when funds to retire the same are obtainable from other sources.

When projects may be otherwise sponsored.

Section 3. There is hereby created in each county, school district and municipal corporation, an emergency fund to be known as the "emergency relief fund", which fund shall consist of all monies received by any such political subdivision of the State in the manner hereinafter provided. The monies collected and payable into such fund shall be used for the sole and only purpose of redeeming outstanding warrants legally issued, payable out of such fund. The governing board or body of any such political subdivision of the State is hereby authorized to issue warrants payable out of said emergency relief fund, in anticipation thereafter of the receipt of such monies to be deposited in such fund as herein provided.

Emergency relief fund created.

Anticipatory warrants authorized.

Section 4. The governing board or body of any such political subdivision is hereby empowered to levy annually a tax of not to exceed one-half of one per centum (½%) of the taxable value of the property upon which taxes are levied, collected and paid within such political subdivision to be ascertained as provided by law provided that the total tax levied under this act against any property of any political subdivision shall not exceed one per centum of the taxable value thereof:

May levy property tax.

Limitation of amount.

Provided, however, that no governing body of any political subdivision shall be authorized under this act to issue warrants to furnish materials, equipment, rental, supplies or supervision in connection with any project as herein contemplated if there shall be filed with the said governing body previous to the issuance of said warrants a petition opposing the construction of the said project containing the names of as many as ten per cent of the qualified electors voting at the last general election within the specific political subdivision sponsoring the project:

Petition opposing project.

Number of electors required.

Provided further that any governing body proposing to issue emergency relief warrants to sponsor any project

Notice of proposed project to be published.

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as herein contemplated shall cause to be published in some newspaper of general circulation within the said political subdivision at least thirty days previous to the date of the proposed issuance of the said warrants a notice setting forth the intention of the said political subdivision to issue such warrants and describing the purposes for which the same are to be issued. Any limitation of the levy of taxes now provided by law, shall not apply in any political subdivision of the State when, by reason of an act of God, disaster, catastrophe, or accident, there exists an emergency and relief warrants may be issued and negotiated to provide for the employment of needy citizens for the relief of such emergency, in accordance with the provisions of this act; provided that in any political subdivision wherein the funds necessary to liquidate warrants issued in accordance with this act may be paid out of any funds of such political subdivision other than those accumulated in the "emergency relief fund", then in such event, such payments shall be made out of such other funds, provided further that if and when all outstanding warrants issued and payable out of the emergency relief fund have been paid then the authority to levy the tax herein provided for shall cease to exist.

Present tax limitation not applicable in emergency.

Warrants payable out of other funds if available.

Termination of authority to tax.

State board of land commissioners may purchase warrants.

Section 5. The state board of land commissioners is hereby authorized at their discretion to purchase county, school district or municipal emergency relief warrants lawfully issued in pursuance of this act, provided that prior to the purchase of any such county, school district or municipal emergency relief warrants so issued in pursuance of the provisions of this act, the state board of land commissioners shall require a certificate signed by the secretary of the state water conservation board, that the proposed projects for which material, equipment, rentals, and supplies or supervision are to be furnished from funds so provided are for permanent, useful and beneficial purposes and will furnish employment to needy citizens, residents within such political subdivision; provided that any such emergency relief warrants shall be duly issued and registered as in all respects of law required.

Certificate by secretary of state water conservation board required.

Provisions of act are severable.

Section 6. The sections and provisions of this act are severable and are not matters of mutual essential inducement, and it is the intention to confer the whole or any part of the powers herein provided for, and if

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any section or provision or part thereof is for any reason held to be unconstitutional, void or inoperative, it is the intention that the remaining sections and provisions and parts thereof shall remain in full force and effect.

Section 7. Because of the inability of thousands of citizens throughout the state to find employment and to support themselves and their families in the present depression, and because of serious crop failures resulting from unprecedented drought conditions, it is necessary to proceed immediately with the prosecution of projects authorized by the federal government in order to create employment and prevent irreparable injury to the people of the State. An emergency is hereby declared to exist, and this act shall not be subject to the referendum, and shall be in full force and effect from and after its passage and approval and shall continue in effect until March 15th, 1939, and thereafter shall be of no force or effect.

Not subject to the referendum.

Section 8. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 6, 1937.

CHAPTER 86

An Act to Establish an Unpaid Commission on Intergovernmental Cooperation.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is hereby established a standing committee of the senate of this State, to be officially known as the senate committee on intergovernmental cooperation, and to consist of five senators. The members and the chairman of this committee shall be designated in the same manner as is customary in the case of the members and chairmen of other standing committees of the senate. In addition to the regular members, the president of the senate shall be ex officio an honorary nonvoting member of this committee.

Senate committee on intergovernmental cooperation established.

Section 2. There is hereby established a similar standing committee of the house of representatives of this State, to be officially known as the house committee

House committee on intergovernmental cooperation.

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on intergovernmental cooperation, and to consist of five members of the house of representatives. The members and the chairman of this committee shall be designated in the same manner as is customary in the case of the members and chairmen of other standing committees of the house of representatives. In addition to the regular members, the speaker of the house of representatives shall be ex officio an honorary nonvoting member of this committee.

Governor's committee on intergovernmental cooperation.

Section 3. There is hereby established a committee of administrative officials and employees of this State to be officially known as the governor's committee on intergovernmental cooperation, and to consist of five members. Its members shall be: The budget director or the corresponding official of this State, ex officio; the attorney general, ex officio; the chief of the staff of the state planning board or the corresponding official of this State, ex officio; and two other administrative officials or employees to be designated by the governor. If there is uncertainty as to the identity of any of the ex officio members of this committee, the governor shall determine the question, and his determination and designation shall be conclusive. The governor shall appoint one of the five members of this committee as its chairman. In addition to the regular members, the governor shall be ex officio an honorary nonvoting member of this committee.

Montana commission on intergovernmental cooperation established.

Section 4. There is hereby established the Montana commission on intergovernmental cooperation. This commission shall be composed of fifteen regular members, namely:

The five members of the senate committee on intergovernmental cooperation;

The five members of the house committee on intergovernmental cooperation; and

The five members of the governor's committee on intergovernmental cooperation.

The governor, the president of the senate and the speaker of the house of representatives shall be ex officio honorary nonvoting members of this commission. The chairman of the governor's committee on intergovern-

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mental cooperation shall be ex officio chairman of this commission.

Section 5. The said standing committee of the senate and the said standing committee of the house of representatives shall function during the regular sessions of the legislature and also during the interim periods between such sessions; their members shall serve until their successors are designated; and they shall respectively constitute for this State the senate council and house council of the American Legislators' Association. The incumbency of each administrative member of this commission shall extend until the first day of February next following his appointment, and thereafter until his successor is appointed.

Senate council and house council of the American legislators' association.

Section 6. It shall be the function of this commission:

Functions of commission.

(1) To carry forward the participation of this State as a member of the council of state governments.

(2) To encourage and assist the legislative, executive, administrative and judicial officials and employees of this State to develop and maintain friendly contact by correspondence, by conference, and otherwise, with officials and employees of the other states, of the federal government, and of local units of government.

(3) To endeavor to advance cooperation between this State and other units of government whenever it seems advisable to do so by formulating proposals for, and by facilitating:

(a) The adoption of compacts;

(b) The enactment of uniform or reciprocal statutes;

(c) The adoption of uniform or reciprocal administrative rules and regulations;

(d) The informal cooperation of governmental offices with one another;

(e) The personal cooperation of governmental officials and employees with one another, individually;

(f) The interchange and clearance of research and information; and

(g) Any other suitable process.

(4) In short, to do all such acts as will, in the opinion of this commission, enable this State to do its part—

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or more than its part—in forming a more perfect union among the various governments in the United States and in developing the Council of State Governments for that purpose.

Delegations and committees to be established.

Section 7. The commission shall establish such delegations and committees as it deems advisable, in order that they may confer and formulate proposals concerning effective means to secure intergovernmental harmony, and may perform other functions for the commission in obedience to its decisions. Subject to the approval of the commission, the member or members of each such delegation or committee shall be appointed by the chairman of the commission. State officials or employees who are not members of the commission on intergovernmental cooperation may be appointed as members of any such delegation or committee, but private citizens holding no governmental position in this State shall not be eligible. The commission may provide such other rules as it considers appropriate concerning the membership and the functioning of any such delegation or committee.

Advisory boards.

The commission may provide for advisory boards for itself and for its various delegations and committees, and may authorize private citizens to serve on such boards.

Reports.

Section 8. The commission shall report to the governor and to the legislature within fifteen (15) days after the convening of each regular legislative session, and at such other times as it deems appropriate. Its members and the members of all delegations and committees which it establishes shall serve without compensation for such service, but they shall be paid their necessary expenses in carrying out their obligations under this act. The commission may employ a secretary and a stenographer; it may incur such other expenses as may be necessary for the proper performance of its duties, and it may, by contributions to the Council of State Governments, participate with other states in maintaining the said council's district and central secretariats, and its other governmental services.

Compensation.

Secretary and stenographer.

Informal titles of committees and the commission.

Section 9. The committees and the commission established by this act shall be informally known, respectively, as the senate cooperation committee, the house cooperation committee, the governor's cooperation committee and the Montana cooperation commission.

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Council of state governments.

Section 10. The Council of State Governments is hereby declared to be a joint governmental agency of this State and of the other states which cooperate through it.

Text to be communicated to other states of the Union.

Section 11. The secretary of state shall forthwith communicate the text of this measure to the governor, to the senate, and to the house of representatives, of each of the other states of the union, and shall advise each legislature which has not already done so that it is hereby memorialized to enact a law similar to this measure, thus establishing a similar commission, and thus joining with this State in the common cause of reducing the burdens which are imposed upon the citizens of every state by governmental confusion, competition and conflict.

Portions of act declared severable.

Section 12. If any clause or other portion of this act is held to be invalid, that decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that all such remaining portions of this act are severable, and that it would have enacted such remaining portions if the invalid portions had not been included in this act.

Effective date.

Section 13. This act shall be in full force and effect from and after its passage and approval.

Approved March 9, 1937.

CHAPTER 87

An Act Establishing a Retirement System to Provide for the Retirement Upon Retirement Allowances of Public School Teachers in the State of Montana; Establishing a Retirement Board for the Administration of Such System; and Fixing the Powers and Duties Thereof; Fixing the Membership in the Retirement System and Providing Retirement Allowances Thereunder; Establishing Certain Funds for the Administration of Said System and Providing for the Securing of the Moneys, Income, and Revenue for the Maintenance of Such Funds and Providing for the Appropriation of Such Funds as Are Necessary; and Providing for the Discontinuing of the Retirement System Established by Sections 1113 to 1132, Inclusive, of the Revised Codes of Montana of 1935.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Definitions.**

Definitions.

The following words and phrases used in this act shall have the following meanings unless a different meaning is plainly required by the content:

"Retirement system."

(1) "Retirement system" shall mean the teachers' retirement system of the State of Montana provided for in Section 2 of this act.

"Retirement board."

(2) "Retirement board" shall mean the retirement board provided by Section 3 of this act to administer the retirement system.

"Employer."

(3) "Employer" shall mean the State of Montana or the board of trustees of any school district employing teachers subject to the provisions of this act; or other agency of and within the State by which the teacher is paid.

"Teacher."

(4) "Teacher" shall mean any teacher in the public elementary and high schools of the State, including kindergarten teachers in the public schools, and shall include any school librarian or physical training teacher, principal, vice principal, supervisor, superintendent, county superintendent of schools, and any other member of the teaching or professional staff of any public elementary or high school of this State; provided that no person shall be deemed a teacher within the meaning of this act who is not so employed for full time outside vacation periods. The word "teacher" shall also include any person employed in the office of or by the superintendent of public instruction in the performance of duties pertaining to instructional services. In all cases of doubt, the retirement board shall determine whether any person is a teacher as defined in this act.

"Member."

(5) "Member" shall mean any person included in the membership of the system as provided in Section 4 of this act.

"Service."

(6) "Service" shall mean service as a teacher as described in subsection (4) of this section and paid for by an employer as described in subsection (3) of this section.

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(7) "Prior service" shall mean service as a "teacher", or in a similar capacity outside the State, rendered prior to the date of establishment of the system, for which credit is allowable as provided in Section 5 of this act. "Prior service."

(8) "Membership service" shall mean service as a teacher rendered while a member of the retirement system. "Membership service."

(9) "Creditable service" shall mean prior service plus membership service as provided in Section 5 of this act.

(10) "Beneficiary" shall mean any person in receipt of a pension, annuity, a retirement allowance, or other benefit as provided by this act. "Beneficiary."

(11) "Regular interest" shall mean interest at four per centum per annum compounded annually, or at such other rate as may be set by the retirement board in accordance with subsection (2) of Section 7 of this act. "Regular interest."

(12) "Accumulated contributions" shall mean the sum of all the amounts deducted from the compensation of a member and credited to his individual account in the annuity savings fund, together with interest. Regular interest shall be computed and allowed on such total or part thereof when used to provide a benefit at the time of retirement. Interest at the rate of three-fourths the regular rate shall be computed and paid on such total amounts or part thereof when withdrawn for any other purpose. "Accumulated contributions."

(13) "Earnable compensation" shall mean the full rate of the compensation, pay or salary that would be payable to a teacher if he worked the full normal working time except that any compensation in excess of $2,000 per annum shall be used as $2,000 for the purpose of this system. In cases where compensation includes maintenance, the retirement board shall fix the value of that part of the compensation not paid in money. "Earnable compensation."

(14) "Average final compensation" shall mean the average annual compensation, pay or salary earnable by a member during his last ten years of service as a teacher. "Average final Compensation."

(15) "Medical board" shall mean the board of physicians provided for in Section 3 of this act. "Medical board."

(16) "Annuity" shall mean payments for life derived from the accumulated contributions of a member as "Annuity."

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provided in this act. All annuities shall be paid in equal monthly installments.

"Pension." (17) "Pension" shall mean payments for life derived from money provided by the employer as defined in this act. All pensions shall be paid in equal monthly installments.

"Retirement allowance." (18) "Retirement allowance" shall mean the annuity plus the pension.

"Annuity reserve." (19) "Annuity reserve" shall mean the present value of all payments to be made on account of a member's annuity granted under the provisions of this act, computed upon the basis of such mortality tables as shall be adopted by the retirement board and regular interest.

"Pension reserve." (20) "Pension reserve" shall mean the present value of all payments to be made on account of a pension granted under the provisions of this act, computed on the basis of such mortality tables as shall be adopted by the retirement board with regular interest.

"Actuarial equivalent." (21) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality tables as shall be adopted by the retirement board and regular interest.

"Former retirement system." (22) "Former retirement system" shall mean the retirement system established under Sections 1113 to 1132 inclusive of the Revised Codes of Montana of 1935.

Section 2. **Name and Date of Establishment.**

State teachers' retirement system established. A state teachers' retirement system is hereby established for the teachers of the State of Montana, and placed under the management of a "retirement board" for the payment of retirement allowances and other benefits under the provisions of this act. The retirement system herein created shall have such powers and privileges of a corporation as may be necessary to carry into effect the provisions of this act. The retirement system so created shall begin operation as of the first day of September, 1937, except that the state's contribution to the pension accumulation fund shall begin with the fiscal year, July 1, 1937; and such system shall be known as "The Teachers' Retirement System of the State of Montana", and by such name all of its business shall be transacted, all of its funds invested, and all of its cash

Operation to begin Sept. 1, 1937.

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and securities and other property held in trust for the purpose for which received.

Section 3. **Administration.**

(1) The general administration and the responsibility for the proper operation of the retirement system and for making effective the provisions of this act are hereby vested in a retirement board. Subject to the limitations of this act the retirement board shall from time to time establish rules and regulations for the administration and transaction of the business of the retirement system and shall perform such other functions as are required for the execution of this act. The membership of the retirement board shall consist of five persons as follows:

Retirement board to administer system.

(a) The superintendent of public instruction

(b) The state treasurer

(c) The attorney general

Membership of board.

(d) Two other members known as teacher members who shall be members of the retirement system and who shall be appointed by the state board of education as hereinafter provided.

(2) At the first regular meeting of the state board of education following September 1, 1937, the state board of education shall appoint and designate two qualified teacher members of the retirement board, one of whom shall be designated to serve for one year, and the other for two years from the date of such appointment. Annually thereafter the said state board of education shall appoint one teacher member of said retirement board to succeed the teacher member whose term expires on such date, and each person so appointed shall hold said office for the period of two years from date of his appointment or until his successor shall be appointed and qualified. Until the first appointment of such teacher members shall have been made and the teacher members appointed duly installed, the ex-officio members of the retirement board shall constitute an acting retirement board.

State board of education to appoint two members of retirement board.

Terms of teacher members.

(3) If a vacancy occurs in the office of a teacher member of said board, the vacancy may be filled until the next regular meeting of the state board of education by the remaining members of the retirement board, and

Vacancy in office of teacher member.

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at said next regular meeting of the state board of education said vacancy shall be filled by the said state board of education for the unexpired term.

Vacancy in office of ex-officio member.

(4) If a vacancy occurs in the office of an ex-officio member of the board the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.

Oath of office.

(5) Each member of the retirement board created by this act shall take and subscribe the oath prescribed by Article XIX, Section 1 of the Constitution of the State of Montana, and such oath shall be filed in the office of the secretary of state.

Quorum.

(6) A majority of the members of the retirement board shall constitute a quorum for the transaction of any business.

Compensation of members.

(7) The members of the retirement board shall serve without compensation except that the teacher members thereof shall receive a per diem fee of ten dollars each for each day in actual attendance at the meetings of said board or in the execution of their duties as members of said board; provided, however, that in no instance shall any such member of said board receive as said per diem fee, a sum in excess of one hundred dollars in any one year; and the members of said board shall be allowed their actual and necessary traveling expenses while performing their duties as members of said board, which shall be paid quarterly upon proper vouchers from the expense fund hereinafter named.

Chairman.

Secretary.

(8) The retirement board shall elect from its membership a chairman, and shall appoint a secretary who may be, but need not be one of its members. The secretary shall give bond in such amount and with such sureties as the board may require.

Technical and administrative employees.

(9) The retirement board shall have power to employ and to secure the services of such technical and administrative employees as may be necessary for the transaction of the business of the retirement system. The compensation of all persons engaged by the retirement board shall be fixed by the board and all other expenses of the board necessary for the proper operation of the retirement system shall be paid at such rates and in such amounts as the retirement board shall approve.

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Board to keep data and record of proceedings.

(10) The retirement board shall keep in convenient form such data as shall be necessary for actuarial valuation of the various funds of the retirement system and for checking the experience of the system. It shall keep a record of all of its proceedings which shall be open to public inspection. It shall publish biennially on or before the first day of January wherein the legislative assembly shall meet a report showing in detail the fiscal transactions of the retirement board for the two years ending on the preceding thirtieth day of June, the amount of the accumulated cash and securities of the system and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the assets and liabilities of the retirement system. The board shall submit said report to the governor and shall furnish copies thereof to the heads of the various departments and to the legislative assembly.

To publish biennial report.

Legal Adviser

Legal advisor.

(11) The attorney general of the State of Montana shall be the legal adviser of the retirement board.

Medical Board

Medical board to be designated.

(12) The retirement board may designate a medical board to be composed of three physicians not eligible to participate in the retirement system. If required, other physicians may be employed to report on special cases. The medical board shall arrange for and pass upon all medical examinations required under the provisions of this act, shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement, and shall report in writing to the retirement board its conclusions and recommendations upon all the matters referred to it.

Duties.

Actuary

An actuary to be technical adviser.

(13) The retirement board shall designate an actuary who shall be the technical adviser of the retirement board on matters regarding the operation of the funds created by the provisions of this act and shall perform such other duties as are required in connection therewith.

Mortality tables and rates.

(14) As soon after the establishment of the system as the board may deem it necessary, the board with the assistance of its actuary shall make such investigation

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of the mortality, service and compensation experience of the members of the system as he shall recommend and the retirement board shall authorize, for the purpose of determining upon the proper mortality and service tables to be prepared and submitted to the retirement board for adoption. On the basis of such investigation the said retirement board shall adopt such tables and such rates as are required by Section 8 of this act.

Board to adopt necessary mortality, service and other tables.

(15) It shall be the duty of the retirement board to adopt for the retirement system such mortality, service or other tables as shall be deemed necessary and to certify such rates of contribution as are payable by the State as hereinafter provided. As an aid to the board in certifying the annual rates of payment to be made by the State under the provisions of this act the board shall have prepared by an actuary an annual valuation of the assets and liabilities of the funds of the system. In the year 1940 and at least once in each five year period thereafter, the actuary shall make an actuarial investigation into the mortality, service and compensation experience of the members and beneficiaries of the retirement system, and shall make a valuation of the assets and liabilities of the funds of the system, and taking into account the result of such invesigation and valuation the board shall modify such mortality, service and other tables and shall fix and determine rates of contribution payable on account of members by the state under the provisions of this act, and said board shall have the power and authority at any time the same may be found necessary to readjust and redetermine such rates of contribution to the end that the retirement system shall be kept at all times upon a sound financial and actuarial basis, and that the contributions shall be the actuarial equivalent of the benefits provided and paid.

Periodical actuarial investigation and valuation of funds.

Section 4. **Membership.**

Membership of system.

(1) The membership of the retirement system shall consist of the following:

Public school teachers during 1936-'37.

(a) All persons who were teachers in the public schools of the State during the school year nineteen hundred and thirty-six to nineteen hundred and thirty-seven, and who continue to be teachers shall become members as of the date of establishment, except that any such teacher may notify the board on or before the thirtieth

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day of November, nineteen hundred and thirty-seven, in such form as the board may prescribe, that he does not desire to become a member, and in such case the board shall exclude him from the membership.

On and after Sept. 1, 1937.

(b) All persons who become teachers or re-enter the teaching service on or after the first day of September, nineteen hundred and thirty-seven, shall become members of the retirement system by virtue of their appointment as teachers.

Teacher electing not to become a member.

(c) A teacher who shall elect not to become a member as provided in subdivision (a) of this subsection may thereafter apply for and be admitted to membership, but no such teacher shall receive prior service credit unless he becomes a member before the first day of September, nineteen hundred and thirty-eight.

Discretion of board as to membership right of certain class of teachers.

(2) The retirement board may in its discretion deny the right to become members to any class of teachers whose compensation is only partly paid by the employer, or who are serving on a temporary or any other than a per annum basis, and it may also in its discretion make optional with members in any such class their individual entrance into membership.

Grounds for cessation of membership.

(3) The membership of any person in the retirement system shall cease if he shall be continuously absent without pay for a period of more than three years or if in any period of ten consecutive years after he last became a member he shall render less than five years of service as a teacher or if he withdraws his accumulated contributions or retires on a pension or dies, but not otherwise, except that the membership of a teacher who has not withdrawn his contributions and who has not had sufficient service to be eligible for disability retirement shall not be cancelled, provided the member shall prove to the satisfaction of the retirement board that absence from service was caused by personal illness constituting disability.

Exception.

School trustees to submit data as to teachers employed.

(4) It shall be the duty of each board of school trustees employing teachers subject to the provisions of this act to submit to the retirement board a statement showing the name, title, compensation, duties, date of birth, and length of service of each teacher employed in such schools and such other information regarding such teachers as the retirement board may require.

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Section 5. **Membership Application and Creditable Service.**

Application for membership.

(1) Under such rules and regulations as the retirement board shall adopt, each teacher upon becoming a member shall file with the retirement board an application showing his date of birth, and such other necessary information as the retirement board may require for the proper operation of the retirement system. If a member was a teacher during the school year immediately preceding the establishment of the retirement system, and becomes a member before the first day of September, nineteen hundred and thirty-eight, he shall itemize on such application all service as a teacher rendered prior to the date of establishment, including service in a similar capacity in other states rendered by him prior to the first day of September, nineteen hundred and thirty-seven, for which he claims credit.

Contents.

The equivalent of a year of service.

(2) The retirement board shall fix and determine by appropriate rules and regulations how much service in any year is the equivalent of a year of service, but in computing such service or in computing average compensation, it shall credit no period of more than a month's duration, during which a member was absent without pay, nor shall more than one year of service be credited for all service in any school year.

Board to verify statement of service.

(3) Subject to the above restrictions and to such other rules and regulations as the retirement board shall adopt, said board shall verify as soon as practicable the statement of service submitted.

Prior service certificate.

(4) Upon verification of the statement of service submitted, the retirement board shall issue to each member who was a teacher during the school year immediately preceding the date of establishment of the retirement system and becomes a member before the first day of September, nineteen hundred and thirty-eight a prior service certificate certifying to the aggregate length of prior service as a teacher and to the aggregate length of such service in a similar capacity outside of the State for which the member is entitled to credit. In such prior service certificate, the member shall be credited up to the nearest number of years and months with all service as a teacher prior to September 1, 1937, and with all service not exceeding ten years in a similar capacity in other states.

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Modification of certificate.

(5) So long as membership continues, a prior service certificate shall be final and conclusive for retirement purposes as to such service unless thereafter modified by the retirement board upon application made by the member within one year after the date of issuance or modification of a prior service certificate or upon the discovery by the retirement board of an error or fraud. When membership ceases such certificate shall be void. Should membership be resumed by the teacher, such teacher shall enter the system as a teacher not entitled to prior service credit, except as provided by subdivision (7) of Section 6 of this act.

Certificate void upon cessation of membership.

Creditable service at retirement.

(6) At retirement the creditable service of a member, on which his retirement allowance shall be based, shall consist of the membership service rendered by him since he last became a member and also if he has a prior service certificate, which is in full force and effect, the service certified on his prior service certificate.

Section 6. **Benefits.**

Superannuation Retirement Benefit

Who may retire.

(1) (a) Any member in service who has completed fifteen years of creditable service, the last ten years of which shall have been in this State, and who has attained the age of sixty may retire from service, if he files with the retirement board his written application setting forth at what date, not less than thirty nor more than ninety days subsequent to the filing thereof, he desires such retirement and notwithstanding that during such period of notification, he may have separated from service.

Application for retirement.

Involuntary retirement age.

(b) After the first day of September, nineteen hundred and forty-two, any member in service who has attained the age of seventy years shall be retired forthwith or on the first day of the calendar month next succeeding that in which the said member shall have attained the age of seventy years.

Allowance on Superannuation Retirement

Allowance upon superannuation retirement.

(2) Upon superannuation retirement a member shall receive a superannuation retirement allowance which shall consist of:

Amount of annuity.

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, and

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Pension.

(b) A pension of one-quarter of his average final compensation provided his creditable service is at least thirty-five years, otherwise, a pension of one one-hundred and fortieth (1/140) of his average final compensation multiplied by the number of years of his creditable service, and

Additional pension.

(c) If he has a prior service certificate in full force and effect, an additional pension which shall be equal to one one-hundred and fortieth (1/140) of his average final compensation multiplied by the number of years of service certified to him on his prior service certificate.

Disability Retirement Benefit

Disability retirement.

(3) Upon the application of a member in service or of his employer, any member who has had ten or more years of creditable service in the State of Montana may be retired by the retirement board not less than thirty and not more than ninety days next following the date of filing such application on a disability retirement allowance, provided that the medical board after a medical examination of such member shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent and that such member should be retired.

Certificate by medical board.

Allowance on Disability Retirement

Allowance.

(4) Upon retirement for disability a member shall receive a superannuation allowance if he is eligible for a superannuation allowance; otherwise he shall receive a disability retirement allowance which shall consist of:

Annuity.

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of retirement, and

Amount of pension.

(b) A pension which, together with his annuity, shall provide a total retirement allowance equal to ninety per centum of one-seventieth of his average final compensation multiplied by the number of years of his creditable service, if such retirement allowance exceeds one-quarter of his average final compensation; otherwise; a pension which, together with his annuity, shall provide a total retirement allowance equal to one-quarter of his average final compensation, provided, however, that no such allowance shall exceed ninety percentum of one-seventieth

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of his average final compensation multiplied by the number of years which would be creditable to him were his service to continue until the attainment of the minimum age for superannuation retirement.

Re-Examination of Beneficiaries Retired on Account of Disability

Periodical medical examination of beneficiaries.

(5) Once each year during the first five years following the retirement of a member on disability retirement allowance, and once in every three year period thereafter the retirement board may, and upon his application shall, require a disability beneficiary who has not yet attained the age of sixty to undergo a medical examination by the medical board or a physician or physicians designated by the medical board, such examination to be made at the place of residence of said beneficiary or other place mutually agreed upon. Should any disability beneficiary who has not yet attained the age of sixty refuse to submit to at least one medical examination in any year by the medical board or a physician or physicians designated by the medical board, his allowance may be discontinued until his withdrawal of such refusal, and should his refusal continue for one year, all his rights in and to his pension may be revoked by the retirement board.

Refusal to submit to re-examination.

Pension reduced by amount earnable.

(6) Should the medical board report and certify to the retirement board that any disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference between his retirement allowance and his average final compensation and should the retirement board concur in such report, then the amount of his pension shall be reduced to an amount which, together with his annuity and the amount earnable by him, shall equal the amount of his average final compensation. Should his earning capacity be later changed the amount of his pension may be further modified; provided that the new pension shall not exceed the amount of the pension originally granted, nor an amount which when added to the amount earnable by the beneficiary, together with his annuity equals the amount of his average final compensation. A beneficiary restored to active service at a salary less than the average final compensation upon the basis of which he was retired shall not become a member of the retirement system while receiving a reduced benefit.

Beneficiary restored to service.

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Restoration to service, when allowance shall cease.

(7) Should a disability beneficiary under age sixty be restored to active service at a compensation not less than his average final compensation his retirement allowance shall cease; he shall again become a member of the retirement system and contribute thereto. Any prior service certificate on the basis of which his service was computed at the time of his retirement shall be restored to full force and effect and in addition upon his subsequent retirement he shall be credited with all his service as a member, and should he be restored to active service on or after the attainment of the age of fifty-five years, his pension upon subsequent retirement shall not exceed the pension that he would have received had he remained in service during the period of his previous retirement nor the sum of the pension which he was receiving immediately prior to his last restoration to service and the pension that he would have received on account of his service since his last restoration had he entered service at that time as a new entrant.

Pension upon subsequent retirement.

Return of Contributions

Contributions returnable upon withdrawal from service.

(8) (a) A member who withdraws from service or ceases to be a teacher for any cause other than death or retirement shall be paid such part of the accumulated contributions standing to the credit of his individual account in the annuity savings fund as he shall demand.

Contributions payable to estate of deceased member.

(b) Should a member die before retirement the amount of the accumulated contributions standing to the credit of his individual account in the annuity savings fund shall be paid to his estate or to such person as he shall have nominated by written designation duly executed and filed with the retirement board.

Optional Benefits

Member may elect as to plan for receiving benefits.

(9) With the provision that no optional selection shall be effective in case a beneficiary dies within thirty days after retirement, and that such a beneficiary shall be considered as an active member at the time of his death; until the first payment on account of any benefit becomes normally due, any member may elect to receive his benefit in a retirement allowance payable throughout life as hereinabove provided, or he may on retirement elect to receive the actuarial equivalent at that time of his retirements allowance in a lesser retirement allowance payable throughout life with the provision that:

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Balance of contributions payable to representative.

Option 1. If he dies before he has received in payments of his annuity the amount of his accumulated contributions as they were at the time of his retirement, the balance shall be paid to his legal representative or to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board; or

Reduced retirement allowance payable to nominee.

Option 2. Upon his death, his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement; or

One-half to nominee.

Option 3. Upon his death, one half of his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement; or

Other benefits.

Option 4. Some other benefit or benefits shall be paid either to the member or to such person or persons as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement, provided such other benefit or benefits, together with the lesser retirement allowance shall be certified by the actuary to be of equivalent actuarial value to his retirement allowance and shall be approved by the retirement board.

Section 7. **Management of Funds.**

Board as trustees to invest funds.

(1) The retirement board shall be the trustees of the several funds created by this act and shall have cause to be invested and reinvested all of the funds subject to investment as part of the Montana trust and legacy fund.

Interest on funds.

(2) The retirement board annually shall allow regular interest on the average amount for the preceding year in each of the funds with the exception of the expense fund. The amounts so allowed shall be due and payable to said funds and shall be annually credited thereto by the retirement board from interest and other earnings on the moneys of the retirement system. Any additional amount required to meet the interest on the funds of the retirement system shall be paid by the state during the ensuing year and any excess of earning over such

State to pay required additional amount.

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amount required shall be deductible from the amounts to be contributed by the state during the ensuing year. Regular interest shall mean such per centum rate to be compounded annually as shall be determined by the retirement board on the basis of the interest earnings of the system for the preceding year and of the probable earnings to be made, in the judgment of the board, during the immediate future.

State treasurer to be custodian of funds.

(3) The state treasurer shall be the custodian of the several trust funds and of the securities in which said funds are invested. All payments from said funds shall be made by him only upon vouchers signed by two persons designated by the retirement board. A duly attested copy of a resolution of the retirement board designating such persons and bearing on its face specimen signatures of such persons shall be filed with the treasurer as his authority for making payments upon such vouchers. No voucher shall be drawn unless it has previously been authorized by resolution of the retirement board.

Vouchers.

Members of board not to profit by investment of funds.

(4) Except as herein provided no member of the retirement board and no employee of the board shall have an interest, direct or indirect, in the gains or profits of any investment made by the retirement board, nor as a member of the board directly or indirectly, receive any pay or emolument for his services. No member of the said board or employee thereof shall directly or indirectly for himself or as an agent in any manner use the funds or deposits of the retirement system except to make such current and necessary payments as are authorized by the retirement board; nor shall any member or employee of the board become an endorser or surety or in any manner an obligor for moneys loaned by or borrowed from the retirement board.

May not become surety.

Section 8. **Method of Financing.**

Funds created.

There are hereby created and established an "annuity savings fund", an "annuity reserve fund", a "pension accumulation fund", a "pension reserve fund" and an "expense fund", into which funds all of the assets of the retirement system shall be credited according to the purpose for which they are held as hereinafter prescribed.

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Annuity Savings Fund

Annuity savings fund.

(1) The annuity savings fund shall be a fund in which shall be accumulated the contributions from the compensation of members to provide for their annuities. Contributions to and payments from the annuity savings fund shall be made in the following manner:

Amount deductible from compensation by employer.

(a) Each employer shall deduct from the compensation of each member on each and every payroll of such member for each and every payroll period subsequent to the date on which such member became a member an amount equal to five per centum of such member's earnable compensation but no employer shall make any deductions for annuity purposes from the compensation of a member who has attained the age of sixty and rendered thirty-five years of creditable service if such a member elects not to contribute.

Determination of amount earnable.

(b) In determining the amount earnable by a member in a payroll period, the retirement board may consider the rate of compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit deductions from compensation for any period less than a full payroll period if a teacher was not a member on the first day of the payroll period, and to facilitate the making of deductions, it may modify the deduction required of any member by such an amount as shall not exceed one-tenth of one percentum of the annual compensation upon the basis of which said deduction is to be made.

Payment of salary less deductions provided for herein to fully discharge claim for services rendered.

(c) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for herein and shall receipt in full for his salary or compensation; and payment of salary or compensation less said deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such person during the period covered by such payment except as to the benefits provided by this act.

Default in state's contributions.

(d) Notwithstanding the preceding provision, no deduction shall be made from any member's salary on account of which the state's contributions on his account are in default.

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Member may redeposit withdrawn contributions.

(e) In addition to the contributions deducted from compensation as hereinbefore provided, subject to the approval of the retirement board, any member may redeposit in the annuity savings fund by a single payment or by an increased rate of contribution an amount equal to the total amount which he previously withdrew therefrom as provided in this act, or any part thereof; or any member may deposit therein by a single payment or by an increased rate of contribution amounts for the purchase of an additional annuity, but such additional payments shall not exceed the amounts computed to provide with his prospective retirement allowance a total retirement allowance of one-half of his average final compensation at the minimum age at which the member will become eligible for superannuation retirement. Such additional amounts so deposited shall become a part of his accumulated contributions, except in the case of disability retirement, when they shall be treated as excess contributions returnable to the member in cash or as an annuity of equivalent actuarial value and shall not be considered in computing his pension. The accumulated contributions of a member withdrawn by him, or paid to his estate or to his designated beneficiary in event of his death as provided in this act, shall be paid from the annuity savings fund, and an amount equivalent to the difference between the accumulated contributions calculated at regular interest and the amount paid shall be transferred to the expense fund. Upon the retirement of a member his accumulated contributions shall be transferred from the annuity savings fund to the annuity reserve fund.

Deposits for additonal annuity.

Annuity Reserve Fund

Annuity reserve fund.

(2) The annuity reserve fund shall be the fund in which shall be held the reserves on all annuities in force and from which shall be paid all annuities and all benefits in lieu of annuities, payable as provided in this act. Should a beneficiary retired on account of disability be restored to active service with a compensation not less than his average final compensation at the time of his last retirement his annuity reserve shall be transferred from the annuity reserve fund to the annuity savings fund and credited to his individual account therein.

Pension Accumulation Fund

Pension accumulation fund.

(3) The pension accumulation fund shall be the fund in which shall be accumulated all reserves for the pay-

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ment of all pensions and from which pensions and benefits in lieu thereof shall be paid to or on account of beneficiaries credited with prior service. Contributions to and payments from the pension accumulation fund shall be made as follows:

Percentage payable by state.

(a) On account of each member there shall be paid annually beginning with the first day of July, nineteen hundred and thirty-seven, into the pension accumulation fund by the State of Montana, a certain percentage of the earnable compensation of each member of the retirement system for the preceding school year to be known as the "normal contribution" and a further percentage known as the "deficiency contribution". The rates per centum of such contributions shall be fixed on the basis of the liabilities of the retirement system as shown by actuarial valuation. Provided that until such time as the legislative assembly shall provide adequate funds for the establishment of such reserves as are set up in this act, such parts of this act as deal with the reserves to be built up by contributions from the State shall be inoperative. Until such time as stated above the State shall pay to the teachers retired under this act the amounts specified therein, provided, however, that for each of the years beginning July 1, 1937 and July 1, 1938, the State's contribution shall not exceed the sum of $75,000 per annum; provided, further, that the retirement board shall pay to the teachers qualifying under this act their proportionate share of the amounts specified herein.

Normal contribution rate.

(b) On the basis of regular interest and of such mortality and other tables as shall be adopted by the retirement board, the actuary engaged by the retirement board to make each valuation required by this act during the period over which the deficiency contribution is payable, immediately after making such valuation, shall determine the uniform and constant percentage of the earnable compensation of the average new entrant, which if contributed on the basis of the compensation of such member throughout his entire period of active service, would be sufficient to provide for the payment of any pension payable by the State on his account. The rate per centum so determined shall be known as the "normal contribution" rate. After the deficiency contribution has ceased to be payable, the normal contribution rate

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shall be the rate per centum of the earnable salary of all members obtained by deducting from the total liabilities of the pension accumulation fund the amount of the funds in hand to the credit of that fund and dividing the remainder by one per centum of the present value of the prospective future salaries of all members as computed on the basis of the mortality and service tables adopted by the retirement board and on the basis of regular interest. The normal rate of contribution shall be determined by the actuary after each valuation.

Deficiency contribution.

(c) Immediately succeeding the first valuation the actuary engaged by the retirement board shall compute the rate per centum of the total annual compensation of all members which is equivalent to four per centum of the amount of the total pension liability on account of all members and beneficiaries not dischargeable by the present assets of the pension accumulation fund and the aforesaid normal contribution if made on account of such members during the remainder of their active service. The rate per centum, originally so determined, shall be known as the "deficiency contribution". Provided such rates shall not go into effect until the year 1939-1940.

Amount payable by state.

(d) The total amount payable annually by the State of Montana into the pension accumulation fund shall be not less than the sum of the rates per centum known as the normal contribution rate and the deficiency contribution rate of the total compensation earnable by all members during the preceding school year, provided, however, that the amount of each annual deficiency contribution shall be at least three per centum greater than the preceding annual deficiency payment, and that the aggregate payment into the pension accumulation fund shall be sufficient, when combined with the amount in the pension accumulation fund, to provide the pensions payable out of the fund during the current year.

Discontinuance of deficiency contribution.

(e) The deficiency contribution shall be discontinued as soon as the accumulated reserve in the pension accumulation fund shall equal the present value, as actuarially computed and approved by the retirement board, of the total liability of such fund less the present value, computed on the basis of the normal contribution rate then in force, of the normal contributions to be received on account of teachers who are at that time members.

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Interest and dividends earned.

(f) All interest and dividends earned on the funds of the retirement system shall be credited to the pension accumulation fund and the amounts required to allow regular interest on the annuity savings fund, the annuity reserve fund and the pension reserve fund shall be transferred to the respective funds from the pension accumulation fund.

Pensions payable from pension accumulation fund.

(g) All pensions and benefits in lieu thereof, including pensions payable under Section 12, with the exception of those payable to members not entitled to prior service credit shall be paid from the pension accumulation fund.

Moneys in certain funds to be paid into pension accumulation fund.

(h) All moneys and securities to the credit of the public school teachers' retirement salary fund and the public school teachers' permanent fund on the first day of September, nineteen hundred and thirty-seven, shall be paid by the state treasurer into the pension accumulation fund.

Transfers to and from pension reserve fund.

(i) The retirement board may in its discretion transfer to and from the pension accumulation fund the amount of any surplus or deficit which may develop in the reserve creditable to the annuity reserve fund or the pension reserve fund, as shown by actuarial valuation.

(j) Upon the retirement of a new entrant, an amount equal to his pension reserve shall be transferred from the pension accumulation fund to the pension reserve fund.

Pension Reserve Fund

Pension reserve fund.

(4) The pension reserve fund shall be the fund in which shall be held the reserves on all pensions granted to members not entitled to prior service credit and from which shall be paid such pensions and benefits in lieu thereof. Should a member not entitled to prior service credit who has been retired on account of disability be restored to active service with a compensation not less than his average final compensation at the time of his last retirement, the pension reserve held on account of his pension shall be transferred from the pension reserve fund to the pension accumulation fund. Should the pension of such a disability beneficiary be reduced as a result of an increase in his earning capacity the amount of the annual reduction in his pension shall be paid annually into the pension accumulation fund during the period of such reduction.

Transfer of pension reserve from that fund to pension accumulation fund.

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Expense Fund

Expense fund.

(5) The expense fund shall be the fund to which shall be credited all moneys contributed for the administrative expenses of the retirement system and from which the expense of the administration of the retirement system shall be paid exclusive of amounts payable as retirement allowances and as other benefits provided herein. Contributions shall be made to the expense fund as follows:

Deduction by employers for expense fund.

(a) The retirement board shall determine annually the amount required to defray such expense in the ensuing fiscal year. There shall be deducted from the compensation of each member by the several employers the sum of one dollar for each year, in addition to all other deductions herein provided, which sum shall be transmitted to the retirement board in the same manner as herein provided for the transmission of other member contributions, and such sums so deducted shall become a part of, and be charged to, said expense fund, and shall not become a part of the members' accumulated contributions.

Transfer to expense fund.

(b) The amount equivalent to the difference between the accumulated contributions calculated at regular interest and the amount paid at withdrawal or death shall be transferred to the expense fund.

Balance of expense payable by state.

(c) The expense not payable by the contributions of members and amounts transferred from the annuity savings fund as provided under paragraph (b) of this subsection shall be contributed and paid by the State of Montana, provided that for the years 1937-1938 and 1938-1939 the amount paid by the State for administration shall not exceed four thousand dollars ($4000.00).

Proviso.

Duties of employer.

Section 9. **Duties of Employer.**

Records and information.

(1) Each employer shall keep such records and from time to time shall furnish such information as the retirement board in the discharge of its duties may require.

To inform teacher-employee of retirement system.

(2) Upon the employment of any teacher to whom this act may apply, he shall be informed by his employer of his duties and obligations in connection with the retirement system as a condition of his employment. Every teacher accepting employment shall be deemed to consent

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and agree to any deductions from his compensation required herein and to all other provisions of this act.

Certify to board names of teachers.

(3) During September of each year, or at such time as the retirement board shall approve, each employer shall certify to the retirement board the names of all teachers to whom this act applies.

Monthly report as to changes.

(4) Each employer shall on the first day of each calendar month or at such less frequent intervals as the retirement board may approve, notify the retirement board of the employment of new teachers, removals, withdrawals and changes in salary of members that shall have occurred during the month preceding or the period covered since the last notification.

Section 10. **Collection of Contributions by Members.**

Collection of contributions.

The collection of members' contributions shall be as follows:

Employer to deduct contribution.

(a) Each employer shall cause to be deducted on each and every payroll of a member for each and every payroll period subsequent to the first day of September, nineteen hundred and thirty-seven, the contribution payable by such member as provided in this act.

Employer to remit monthly.

(b) Each employer shall transmit monthly a warrant for the total amount of such deduction to the secretary of the retirement board. The secretary of the retirement board after making records of all such warrants shall transmit them to the state treasurer who shall collect the same.

Board may modify method of collecting.

(c) Notwithstanding the foregoing, nothing in this section shall prevent the retirement board from modifying the method of collecting the contributions of members so that employers may retain the amount so deducted and have a corresponding amount deducted from state funds otherwise payable to them.

Section 11. **Contribution by the State.**

Contribution by state.

(1) From and after the first day of July, 1937, there shall be and is hereby appropriated from all moneys derived from the sales of liquor at all of the state liquor stores within the State, five per centum (5%) of all of the net receipts of such sales for the purpose of creating and maintaining the pension accumulation fund created by and in Section 8 of this act. Beginning on

Appropriation from net receipts of liquor control board.

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the first day of August, 1937, the Montana liquor control board shall on the first day of each month or as soon thereafter as the said Montana liquor control board has determined the net receipts from all sales of liquor at the state liquor stores for the month next preceding, disburse to the state treasurer a sum equal to five per centum (5%) of such net receipts, such sum to be taken from moneys derived from the sale of liquor at the state liquor stores. If at any time when such disbursement is required hereby to be made, there are not sufficient moneys on hand to make the same, the deficit shall be made up from the first receipts from the sales of liquor at the state liquor stores received by the said Montana liquor control board thereafter. The state treasurer shall immediately upon receipt of any and all sums hereby required to be made to him, place them in the pension accumulation fund created by and in Section 8 of this act. Provided that if the receipts shall exceed the amount required under the provisions of subdivision (3) (a), Section 8 of this act, said surplus shall revert to the general fund of the State.

Section 12. **Provision for Discontinuing Former Retirement System.**

Discontinuance of former system.

(1) On and after the first day of September, nineteen hundred and thirty-seven no further retirements shall be made under the provisions of the law governing the former retirement system and no benefits shall be paid either from the public school teachers' retirement salary fund, or from the public school teachers' permanent fund as established under such law, except as hereinafter described.

Assets to be transferred to pension accumulation fund.

(2) All assets held in the funds maintained under said law on the first day of September, nineteen hundred and thirty-seven shall be transferred to the pension accumulation fund of the retirement system to be held in trust and invested as a trust fund and disbursed only in payment of benefits to those teachers on whose account they were contributed.

Existing retirement salaries payable from pension accumulation fund.

(3) Upon the transfer of such trust funds, the retirement salaries of all persons entitled to retirement salaries from the former retirement system on September first, nineteen hundred and thirty-seven shall be paid beginning as of September 1, 1937, from such trust fund.

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(4) Any such person who having retired upon a retirement allowance under said former retirement system, shall have retired after having served as a teacher for at least thirty-five school years, fifteen of which, including the last ten years, shall have been in the schools of this State, and who shall elect under the next preceding subdivision of this section to receive his interest in said public school teachers' retirement salary fund and said public school teachers' permanent fund in the form of an annuity, shall be entitled, while he shall remain retired, to receive and be paid from the said pension accumulation fund an annual allowance which, together with his said annuity, shall equal the sum of $600.00. Any other person retired upon such allowance who shall elect to receive his interest in said funds in the form of an annuity shall, upon reaching the age of sixty years, be entitled, while he shall remain retired, to receive and be paid from the said pension accumulation fund an annual allowance, which together with his said annuity, shall equal a sum which shall be that proportion of $600.00 which the number of school years which he shall have served as a teacher, and credited under the former retirement system bears to thirty-five.

Adjustment as to persons retired under former system.

(5) The retirement board of the teachers' retirement system of the State of Montana shall employ an actuary to value the liabilities to be assumed by the pension accumulation fund of the retirement system as of the first day of September, nineteen hundred and thirty-seven on account of the payment of the retirement salaries of all persons entitled thereto under the former retirement system as provided under subsection (2) of this section. The actuary so employed shall be an actuary also approved by the retirement salary fund board of the former retirement system. If such valuation shows that the amount held in trust in the pension accumulation fund for the payment of these retirement salaries is less than the amount required to continue such payments to the persons so retired the deficiency contribution rate payable by the state as provided under subsection (3) of Section 8 of this act shall be increased in order to provide future contributions which shall be sufficient with the funds held in trust to provide such payments. If the valuation shows that the amount held in trust is in excess of the amount required to continue such payments to the persons so retired, then the amount of the excess

Actuary to value liabilities to be assumed by pension accumulation fund.

Condition for increase of state's deficiency contribution.

Condition for refunding to contributors amount of excess.

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shall be paid pro rata to the active teachers who were contributors under the provisions of the former retirement act in ratio to the amounts contributed under the provisions of the former retirement act in ratio to the amounts contributed under the provisions of the former retirement act.

Section 13. **Exemption From Taxation, Execution and Assignment.**

Benefits under act exempt from taxation, execution and garnishment.

The pensions, annuities, or any other benefits accrued or accruing to any person under the provisions of this act and the accumulated contributions and cash and securities in the various funds created under this act are hereby exempted from any state, county or municipal tax of the State of Montana, and shall not be subject to execution, garnishment, attachment by trustee process or otherwise, in law or equity, or any other process whatsoever and shall be unassignable except as in this act specifically provided.

Section 14. **Protection Against Fraud.**

Fraud punishable as a misdemeanor.

Any person who shall knowingly make any false statement, or shall falsify or permit to be falsified any record or records of this retirement system in any attempt to defraud such system as a result of such act, shall be guilty of a misdemeanor and shall be punishable therefor under the laws of the State of Montana.

Errors to be corrected and adjusted.

Should any change or error in records result in any member or beneficiary receiving from the retirement more or less than he would have been entitled to receive had the records been correct, then on discovery of any such error, the retirement board shall correct such error, and as far as practicable, shall adjust the payments in such a manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid.

Section 15. **Limitation on Membership.**

Act applicable only to members of this system.

No other provision of law in any other statute which provides wholly or partly at the expense of the State of Montana or of any employer for retirement benefits for teachers of the said State, their widows, or other dependents, shall apply to members or beneficiaries of the retirement system established by this act, their widows or other dependents.

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Section 16. **Guarantee by State.**

Obligations of the state under act.

Regular interest charges payable, the creation and maintenance of reserves in the pension accumulation fund and the maintenance of annuity reserves in the annuity reserve fund and of pension reserves in the pension reserve fund as provided for in this act and the payment of all annuities, pensions, refunds, and other benefits granted under this act are hereby made obligations of the State of Montana, provided, however, that this section shall not be so construed as to make it mandatory upon the State to contribute a larger sum of money than specifically provided in Section 8, especially (3) and Section 11 of this act.

Section 18. **Constitutionality.**

Act made severable.

If any section, subdivision, paragraph, sentence, clause, or part of this act is declared to be unconstitutional, the remainder of this act shall not thereby be invalidated.

Effective date.

Section 19. Except as otherwise provided herein this act shall be in full force and effect from and after its passage and approval.

Repealing clause.

Section 20. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 10, 1937.

CHAPTER 88

An Act to Amend Section 6453, Revised Codes of Montana, 1935, Providing for the Incorporation of Churches, Charities, Fraternal Societies, and Benevolent Associations and Repealing All Other Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 6453, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Incorporation of churches and other non-profit societies and associations.

Section 6453. **Incorporation of Churches, Charities, Benevolent and Fraternal Societies, and Associations.** Associations or persons where pecuniary profit is not the object, for the purpose of establishing and conducting

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churches, hospitals, lyceums, musical and scientific societies, libraries, lodges of Free and Accepted Masons, Independent Order of Odd Fellows, Independent Order of Good Templars, granges of Patrons of Husbandry, benevolent associations, beneficial associations, and all other associations, societies, or orders of like character, and social clubs and agricultural societies, stockgrowers' associations, and other associations of like character, including local, independent, and subordinate organizations, as well as state, respectively, supervisory, governing, and grand organizations and bodies of any such associations, society, or order, or for the purpose of establishing public or private charities or both, or for any other lawful purpose, may become incorporated upon complying with the provisions of this chapter.

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall take effect and be in full force from and after its passage and approval.

Approved March 11, 1937.

CHAPTER 89

An Act to Amend Section 2815.13, Revised Codes of Montana of 1935, Relating to the Manufacture, Sale and Transportation of Beer and the Definition and Content Thereof; and Relating to Sale of Beer by the State Board of Liquor Control.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 2815.13 of the Revised Codes of Montana of 1935, shall be, and the same is hereby amended to read as follows:

Non-intoxicating beer.

"Section 2815.13. Beer containing one half of one per cent (½%), or more, of alcohol by volume and not more than three and two-tenths per cent (3.2%) of alcohol by weight, is hereby declared to be non-intoxicating and such beer and other beer permitted by the congress of the United States may be manufactured and sold; provided that beer containing not more than four per cent (4%) of alcohol by weight may be manufactured and/or sold or transported in and into this State or possessed

Beer of 4% alcoholic content made lawful.

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therein in the manner and under conditions prescribed by the laws of this State and not otherwise. The sale of beer by the Montana liquor control board is hereby prohibited, save and except ale, porter and stout containing more than four per cent (4%) of alcohol by weight."

Sale of beer by liquor control board prohibited.

Section 2. All acts and parts of acts in conflict with this act are hereby repealed.

Section 3. This act shall be in full force and effect from and after the first day of April, 1937.

Approved March 11, 1937.

CHAPTER 90

An Act in Aid of the Federal Copyright Laws, to Assist in Effectuating Their True Intent and Their Enforcement in the State of Montana by Removing and Declaring Illegal Certain Monopolistic Abuses and Activities Wrongfully Practiced Under the Guise of Copyrights Within the State by Price Fixing Combinations, Monopolies and Pools; to Enforce the Montana Constitutional Provisions Prohibiting Price Fixing Monopolies, and Combinations in Restraint of Commerce and Trade, Providing Penalties for Combining Rights Granted by the Copyright Laws Where the Effect of Such Combination Results in the Use of Copyright Privileges as Instrumentalities of Oppression and Extortion Within the State in Violation of Constitutional Provisions; and Encouraging the Rendition, Creation and Production of Copyrighted Works Among the School Children and Citizens of the State of Montana; Encouraging the Marketing and Acceptance of Copyrighted Works, Created by the Citizens of This State; Repealing Certain Acts; Creating a State Anti-monopoly Board for a Particular Function to Be Exercised Only in the Event of Abuses and Violations Hereof; Defining Its Duties, and the Jurisdiction and Duties of Courts of Record; the Duties of the Prosecuting Attorneys, County Auditors, the State Treasurer and the Secretary of State; and Providing for the Appointment of a Receiver in Certain Instances; Defining Certain Terms; Providing for Service of Process on Non-

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residents; Prohibiting Certain Acts; and Providing Penalties for Violation Hereof.

Be it enacted by the Legislative Assembly of the State of Montana:

Public performance of copyrighted works for profit without owner's consent forbidden.

Section 1. It shall be unlawful for any person to, without the consent of the owner thereof, cause to be publicly performed for profit any dramatic composition, or dramatic musical composition commonly called an opera, or other copyrighted works, or any substantial part thereof, which has been copyrighted under the laws of the United States, or for any person to knowingly participate in the performance or representation of any substantial part thereof, or by knowingly selling a substantial copy of any substantial part thereof. Provided, however, that nothing contained in this act shall affect or be construed to affect motion pictures.

Act not to affect motion pictures.

Owners forbidden to conspire to fix fees for use of copyrighted works.

Section 2. It shall be unlawful for two or more persons holding or claiming separate copyrighted works under the copyright laws of the United States, either within or without the State, to band together, or to pool their interests for the purpose of fixing the prices on the use of said copyrighted works, or to pool their separate interests or to conspire, federate, or join together, for the purpose of collecting fees in this State, or to issue blanket licenses in this State, for the right to commercially use or perform publicly their separate copyrighted works; provided however, such persons may join together if they issue licenses on rates assessed on a per piece system of usage; provided further, this act shall not apply to any one individual author or composer or copyright holder or owner who may demand any price or fee he or she may choose for the right to use or publicly perform his or her individual copyrighted work or works; provided further, such per piece system of licensing must be based on and in proportion to the use made of such copyrighted works and in no case in excess of any other per piece system in operation in other states where any group or persons affected by this act does business, and all groups and persons affected by this act, are prohibited from discriminating against the citizens of this State by charging higher and more inequitable rates per piece for music licenses in this State than in other states; provided further, where the owner, holder, or person having control of any copyrighted work has sold the right to the single use of said copyrighted work, where its sole

Proviso as to per piece system of usage.

Licensing based on use.

Discrimination prohibited.

Effect of sale of right to single use.

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value is in its use for public performance for profit, and has received any consideration therefor, either within or without the State, then said person or persons shall be deemed to have sold and parted with the right to further restrict the use of said copyrighted work or works. Provided this does not apply to selling the use of any copyrighted work or works at a different time.

Proviso.

Section 3. In the event two or more persons holding separate copyrighted musical works, or any rights flowing therefrom, whether by assignment, agency agreements, or by any form of agreement, pool their interests, or combine, or conspire, federate, or join together in any way, whether for a lawful purpose or otherwise, a complete list of their copyrighted works or compositions shall be filed once each year with additions or revisions made monthly in the office of the secretary of State of the State of Montana, together with a list of the prices charged or demanded for their various copyrighted works; no payment or filing fee shall be required by the secretary of state, and said persons, corporations, or associations, foreign or domestic, shall state therein under oath, that said list is a complete catalogue of the titles of their claimed compositions, whether musical or dramatic or of any other classification, and in addition to stating the name and title of the copyrighted work it shall recite therein the date each separate work was copyrighted, and the name of the author, the date of its assignment, if any, or the date of the assignment of any interest therein, if any, and the name of the publisher, the name of the present owner, together with the addresses and residences of all parties who have at any time had any interest in such copyrighted work. The secretary of state shall require two copies of said list, one of which he shall keep on file, the other shall be forwarded to the office of the state treasurer at Helena.

Combining owners required to file list of copyrighted works.

Section 4. The foregoing list of names and titles, provided for in the preceding section, shall be made available by the secretary of state to all persons for examination, in order that any user of copyrighted works in this State may know the rights and titles to such copyrighted works as may be claimed by any of said combinations, pools, associations, or persons as aforesaid; said lists shall be prepared so that all persons may avoid using said copyrighted compositions, if they so desire, and may

List to be available for examination.

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avoid conflict therewith, and avoid committing innocent infringements of said works; and said lists so filed shall constitute constructive notice to all persons of the matters contained therein; and in order to further effectuate the copyright laws of the United States, the secretary of state, shall, if he deems it necessary to protect the citizens of this State from committing innocent violations of the copyright laws of the United States, publish such list once each year in a newspaper of general circulation, in order that all citizens of the State may respect any and all individual rights granted by the United States copyright laws.

Shall constitute constructive notice.

To whom act applies.

Section 5. No person, corporation, or association, domestic or foreign, whether doing business in this State as hereinafter defined or not, shall be absolved from the foregoing duty of filing said list of holdings as required in the preceding sections of this act, if their music or copyrighted works are used commercially in this State, or have been used herein, whether originating from a point within the State or from without, and as long as any rendition thereof is received or heard within the State, or is intended to be so received by the originator of any musical program; provided, however, any individual owner of a copyrighted work or works, not a party to or not connected in any way with any pool, conspiracy, combination, or groups, or association of persons, as prohibited by this act, need not file any such list.

Production and commercial use of copyrighted works declared subject to police power of state.

Section 6. It is hereby declared that the production and creation of music and the commercial use of music and of copyrighted works within this State, whether originating at a point from within or without the State, as long as the same shall be rendered and publicly received within the confines of this State, whether mechanically or by radio communication, is a business clothed and affected with the public interest, and the adult educational advantages engendered by the public use of music and in its creation, makes this business one of public necessity, and necessary for the education and training of the youth of this State; that many abuses are practiced under a false guise of federal protection which only the State with its police power can easily and lawfully restrain, and in order to prohibit, discourage and prevent monopolistic practices, and to prevent extortion, to encourage free bargaining between the citizens of this

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State with each other and with those without the State, and in order to give greater effect to the constitutional provisions relating to monopoly and price-fixing, and in the general interest of the public, therefore, the legislature in the interest of the peace and dignity of the State, in the interest of good morals and the general welfare of the people of this State, and for greater educational advantages to the public, declares that said business shall be subject to the police power and reasonable regulation of the state government, and such police and regulating power shall be administered by the courts and other officials of this State in a manner consistent with, in aid of, and never in conflict with, the copyright laws of the United States. The provisions of this act, and the administration thereof, shall at all times effectuate the enforcement, the true intent, and meaning of the United States copyright laws in order to prevent abuses from being practiced within this State from points within or from points without the State, by any individual, corporation, or organizations, who attempt to use the federal courts as innocent instrumentalities in the furtherance of any systematic campaign or scheme designed to illegally fix prices for the commercial use of copyrighted works in this State through the use of extortionate means and terrorizing practices based on threats of suits, and an abuse of both state and federal process, all of which are declared to be in violation of this act and of the state constitution; it is further declared that any person or persons, or combines, as aforesaid, who shall violate this act shall be deemed to have used their property within this State in such a way that the same shall have acquired a legal situs, analogous to the situs of other personal tangible property within the State, even though separate from the domicile and residence of the owner; provided further, the legal situs of any copyrighted work is a co-extensive about the State, and a copyrighted work used or sold for public use or public performance for profit, if intended to be heard from a point without the State or from a point within the State, is hereby declared to be a commercial commodity, and its legal situs is hereby declared to be within the State of Montana.

Act in aid of copyright laws of the United States.

Practices declared violation of act.

Legal situs of property of violators.

Copyrighted work as a commercial commodity within state.

Section 7. All persons, groups, corporations, associations, foreign or domestic, violating this chapter, shall be deemed to have been doing business within this State and amenable to the process of the state courts, when

What constitutes doing business within state.

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any such persons, combinations, or groups shall have issued licenses either from within or from without the State, for the privilege of using commercially and publicly any copyrighted work or works pooled in a common group or entity, or when any of the functions of said entity, organization, pool or combine, is or has been performed in this State; and the business of spying upon and the warning of users of the copyrighted works of such combinations, in addition to the presence within the State of such persons, and the activities of such persons or their agents at any time or occasion for the detection of infringements within this State, shall be conclusive evidence that such combinations and persons, even though non-residents, have accepted the privileges of doing business within this State, and such persons, if they abide by the provisions of this act, shall be granted the privilege of conducting business within this State in a legal manner, and may invoke the benefits of the State government and its political subdivisions in their behalf, and they may use all of the privileges available to the citizens of this State in general, and the use at any time of any general privilege available to any citizen of this State, by any such agents, their attorneys, or representatives, or investigator, or by any aidor and abettor, or any non-resident person, group, entity, or combination as aforesaid, shall be deemed to be an acceptance of the provisions of this act; and all licensees of any violator of this act shall be deemed as aidors and abettors of said persons and subject to the provisions of this act unless they forthwith indicate their obedience herewith; and the acceptance of the general privileges of the State of Montana by any non-resident copyright holder or owner, or combination, defendant, or person, or organization of any kind, or entity, through an investigator, attorney, agent representative, or through any aidor and abettor as herein defined, and the acceptance by such persons of the rights, police protection, or of any general privilege conferred by the law of this State to any of its citizens, including the use of the roads and highways, or the privileges of any of its political subdivisions, as evidenced by their presence within the State at any time, shall be deemed equivalent to and construed to be an appointment by such non-resident or non-residents, as the case may be, of the secretary of state of Montana to be his or their true and lawful attorney upon whom may be served all summons and processes against him

Use of state privileges deemed acceptance of act.

Licensees as aidors and abettors of violators.

Secretary of state as attorney for non-resident copyright owner.

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or them and growing out of a violation of this act, in which said non-resident may be involved, and said acceptance of the privileges of this State, as aforesaid, shall be a signification of his or their agreement that any summons or process against him or them which is so served shall be of the same legal force and validity as if served on him or them personally within the State of Montana. Service of such summons or process shall be made by leaving a copy thereof with a fee of $2.00 with the secretary of the State of Montana, or in his office, and such service shall be sufficient and valid personal service upon any such non-resident defendant, copyright holder or owner, persons, or defendants, combination, entity, or organization, as aforesaid; provided, that notice of such service and a copy of the summons of process shall be forthwith sent by registered mail requiring personal delivery, by the prosecutor bringing any action under this act, to any defendant at his last known address, and the defendants return receipt and the prosecutors affidavit of compliance herewith are appended to the process and entered as a part of the return thereof; provided further, the court in which any action is brought may order such continuances as may be necessary to afford any non-resident defendant or groups, or entity, a reasonable opportunity to defend the action; provided further, the secretary of state shall keep a record of all such summons and process which shall show the day and time of service; and valid personal service shall thus be had on non-resident persons or individuals, entities, firms, or corporations violating this act.

Service of process.

Section 8. In the event any person, or groups of persons, or any combination or pool as aforesaid, whether a non-resident corporation, person, or an association, or domestic, refuse to abide by the provisions hereof, or attempt to evade or render ineffectual the true enforcement of any provision of this act, then the prosecuting attorney of any county where complaint is made of any violation, shall institute injunction proceedings against said persons in the district court, and valid personal service may be had upon any non-resident defendant as set forth in the preceding section; and the court shall enjoin all persons from violating the provisions of this act and the constitutional provisions prohibiting price-fixing, monopolies, and combinations, and all copyrighted

District court action to enjoin violators of act.

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works and the public performance rights thereto when sold or used for profit and hereby declared to be a commercial commodity, and all persons, aidors and abettors, and agents, shall be enjoined by the court from aiding or furthering in any way a continuation of any violation of this act, either by the payment of money to said defendants or in any way; and if any defendant or defendants persist in defying the judgment of the court, the court shall, in order to effectuate its judgment and orders, order three days notice be given said defendant or defendants, as the case may be, by having a copy of such notice served on the secretary of state as heretofore provided if defendants are without the State, or served personally if within the State, and have the same published in some daily paper in the State of general circulation, and at the end of said period, if any defendant or defendants refuse to obey the order of the court, then the Court shall appoint the county auditor as receiver for the copyrighted works and property of defendants, tangible or intangible, and of all other effects and moneys derived therefrom, and the receiver shall take over and preserve the commercial rights to all of said copyrighted works, together with such other property of any defendant, combination, pool, corporation, or entity through which they are acting, that he can locate within the State, and the receiver shall administer the same under the direction of the court, and said receivership shall be considered only as an incident to the main injunction suit of the prosecutor, and for the purpose of enforcing the courts orders; the said receiver shall seize the copyrighted works of all of the copyright holders and owners in said defendant combination, including all of the rights to suits for infringement and damages in both state and federal courts, and all choices of action, and all sums due on contracts and licenses, and hold the same subject to the order of the court; and all persons holding licenses or contracts with any defendant combination or entity, shall pay the fees and sums due thereon to the receiver for such time as the court may need to effectuate the provisions of this act and to compel any defendant to abide herewith; provided any sums paid on licenses violating this act shall only be continued in the courts discretion or until such time as the court can award defendants complete and full due process of law before entering a final order thereon, or until such time as a

Receivership for copyrighted works of violators.

Duties of receiver.

License fees payable to receiver pending termination of action.

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legal and equitable system of licensing can be determined according to the subsequent provisions of this act; provided further, in the event any defendant or defendants attempt to withdraw their said copyright works or property from the State in order to violate and render this act or the courts orders ineffectual, or to deprive the citizens of this State of such commodity, or to hamper the enforcement of any provision of this act, or to injure any citizen or user of music in any way, then the court shall immediately order the receiver to compile a complete list of all of the copyrighted works of said defendants which have been used in this State, and the court shall then convene the state anti-monopoly board, as herein now created, consisting of the state treasurer and the state auditor, and said board shall meet in the county where the suit is filed, and the district judge hearing the cause shall be an advisory member of said board; and said board, of which the state treasurer shall be chairman, shall have only one function, the discouragement of price-fixing and monopolies, and the court shall then submit to said board the single question of the establishment of license rates for the use of these copyrighted works controlled by the defendants so proceeded against, and for the purpose of aiding in the abolition of monopolies and price-fixing, and preventing the violations of this act, the board shall determine a fair and just rate that the receiver should charge for the single and separate public performance for profit of each copyrighted work or works of said defendants, on a per piece system and basis of licensing, and the court shall not be deemed thereby to have divested itself of any of its jurisdiction by so doing; after determining such rate, the said anti-monopoly board shall immediately advise the receiver of its findings, and of its fair rate, and the same shall be filed of record in the cause, and the receiver may then, if said finding is approved by the court, issue licenses for the use of said music at such approved rate on a basis of so much money per each time a piece of music is played or used in a public performance for profit; that said property shall be thus administered by the receiver for a period of one year, or until such time as the defendants, or the individual copyright owners of any combination so proceeded against take oath that they will abide by the rulings of the court and the provisions of this act; and all fees and funds

Proviso as to attempted withdrawal of copyrighted works from state.

State anti-monopoly board.

Function of board.

Receiver may issue licenses.

Duration of receivership.

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collected by the receiver shall be turned over to the state treasurer, and no receivers fees or attorneys fees shall be allowed, and the prosecuting attorney shall be the attorney for the receiver, and the state treasurer shall keep said money in a separate and special fund, subject to the order of the court only for whatever portion thereof that the court may order used to defray the actual expenses of the board and the receivership; at the end of one year, if the defendants and copyright owners or holders in any combination thus proceeded against, continue to wilfully disobey the courts orders, then the court shall issue an order, which shall be published in three public places, to the effect that unless the defendants obey all of the orders of the court within ten days from the date of said order, that the court will proceed to permanently deprive said defendants and each of them of their property; and the court shall then order said defendants to show cause within ten days why they should not be involuntarily compelled to assign all of their copyrighted works to the receiver forthwith, and to show cause why all of the funds as collected in the manner aforesaid from licenses, together with all of the copyrighted works including the performing rights thereto of said defendants and members of said combine, should not escheat and be forfeited forever to the State of Montana, and be subject thereafter to administration by the State in the same manner as all other personal property belonging to the State of Montana; if any of said defendants and copyright holders, or owners, do appear before the end of said ten day period, and take oath that they will abide by the future orders of the court and the provisions of this act, then the court shall release their copyrighted works and order the state treasurer to return any and all of their money which has been received or seized; provided, however, the court shall retain such jurisdiction over their persons for such time as the court may deem necessary to insure strict compliance with the terms of the courts judgment and the provisions of this act; if any of said defendants or copyright owners or holders shall ignore or refuse to obey the show cause order, as aforesaid, or fail to appear at the end of ten days as ordered and abide by the courts judgment, then the court shall make an order and enter judgment to the effect that all of the copyrighted works, including the performance rights thereto, of said defend-

Permanent deprivation of copyright property of violators.

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ants and the members of any defendant combination, shall be construed as having been escheated and forfeited to the State of Montana, and the court shall thereupon appoint some officer of the court to execute an involuntary assignment of all of the legal and equitable titles to all of the copyrighted works of each of said defendants and members of any defendant combination to the receiver, in the event the defendants or any of their members fail to execute a voluntary assignment, and the receiver shall immediately file said involuntary assignment at the United States copyright office at Washington, D. C.; and the court shall then order the receiver to close the estate, and turn the titles to said copyrighted works over by proper assignment from the receiver to the state treasurer of the State of Montana, who shall thereafter administer, issue licenses for the use of the same in a manner consistent with this act, and conserve the same as State personal property in his possession, and according to law; and any funds left in the state treasury from said receivership shall escheat and be forfeited to the State and become part of the general fund; provided further, the state treasurer shall make a report to the legislature on each biennium of the amount of money received from such licensing and the amount of property he has on hand through the enforcement of this act.

Termination of receivership.

Section 9. That in the event any person, or any of the defendants, or non-residents, or non-resident copyright owners or holders, are proceeded against as herein outlined, and are served with process according to law, or any non-resident is served with process as outlined in the preceding sections of this act, and if any of said defendants, or persons, or aidors and abettors named as defendants, appear in any such proceeding by counsel or otherwise, or institute any special proceeding attacking such proceeding, or make any motion therein, either special or general, or if any of them appear to obtain the judgment of the court solely upon the sufficiency of the service of the process upon them, or upon any phase of particularity of said injunction proceedings, such special proceeding or appearance, or motion, or appearance, as the case may be, shall nevertheless be deemed as a general appearance even though the process may have been insufficient, and said parties and defendants as may thus appear in this action, for any reason or

What shall be deemed general appearance by defendant in injunction proceedings.

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cause, whether they seek special or affirmative relief, shall thereafter be subject to the general orders and jurisdiction of the court for all purposes, and if any of said defendants or persons appear in any court proceeding instituted to effectuate this act solely for the purpose of challenging the validity of service of process upon them they shall be deemed to have surrendered themselves and as having submitted to the general jurisdiction of the court; provided however, this section shall not be construed as denying, and no attempt shall be made at any time in any proceeding in connection with the enforcement of this act, to restrain or deny any of said defendants, resident or non-resident, copyright holders or owners, or any person, or members of any defendant combination, entity, pool, or monopoly of their rights or property without full and complete due process of the law. Provided, however, that nothing contained in this act shall affect or be construed to affect motion pictures.

Proviso as to due process of law.

Act not to affect motion pictures.

Section 10. Every person, in addition to the other penalties, provided in this act, who violates or who procures, or aids or abets in the violating of any provision of this act, or who conspires to render ineffectual any valid order or decision of any court in the enforcement of this act, or who procures, conspires with, or aids or abets any person or persons in his or their failure to obey the provisions of this act, or to render ineffectual any valid order of any court in connection with the enforcement of this act shall be deemed guilty of a gross misdemeanor, and upon conviction, shall be punished by a fine not exceeding five hundred dollars ($500.00), or imprisonment in the county jail for not more than six months, or both such fine and imprisonment.

Penalty for violation of act.

Section 11. In case any part or portion of this act shall be held unconstitutional, such holding shall not affect the validity of this act as a whole or any other part or portion of this act, and if any clause, sentence, paragraph, or subdivision, section or part of this act shall for any reason be adjudged invalid, such judgment shall not affect, impair, or invalidate the remainder of the act, but shall be strictly confined in its operation and holding to the specific clause, sentence, paragraph, subdivision, section or part thereof, directly involved in the controversy in which such judgment shall have been rendered; and all other acts and laws in conflict herewith are hereby repealed.

Invalidity of part not to affect validity of other parts of act.

Repealing clause.

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Injunction suits against same defendants in different counties.

Section 12. In the event more than one injunction suit provided for in this act is instituted in this State, in different counties by different prosecuting attorneys, but against the same defendants, the respective district judges hearing the causes may issue orders against said defendant in any county, but in the event any of the various county proceedings enter into the state of receivership, as herein provided, then the judges hearing the respective causes shall order those causes where the defendants are the same, to be consolidated in one action in one particular county, and in such county as the judges may decide, to the end that only one receivership may be appointed for the entire State for the property of the same defendant or defendants.

Repealing clause.

Section 13. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 14. This act shall be in full force and effect from and after its passage and approval.

Approved March 12, 1937.

CHAPTER 91

An Act Requiring Licenses for the Operation, Maintenance, Opening or Establishment of Moving Picture Theatres; Relating to Exemptions From Such License Requirement; Relating to the Collection and Disposition of License Fees, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

License required for operation of movie theatres.

Section 1. It shall be unlawful for any person, firm, corporation, association or copartnership, either foreign or domestic, to operate, maintain, open or establish any movie theatre, without first having obtained a license to do so from the state board of equalization as hereinafter provided.

Application for license.

Section 2. That any person, firm, corporation, association or copartnership desiring to operate, maintain, open or establish a movie theatre in this State shall apply to the state board of equalization for a license to do so. The application for a license shall be made on a form

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which shall be prescribed and furnished by the state board of equalization, and shall set forth the name of such movie theatre, the owner, manager, trustee, lessee, receiver or other person desiring such license; the location, including the street number of such movie theatre, and other such facts as the state board of equalization may require. If the applicant desires to operate, maintain, open or establish more than one such movie theatre, he shall make a separate application for a license to operate, maintain, open or establish each such movie theatre.

State board of equalization to issue license.

Section 3. As soon as practicable after the receipt of any such application, the state board of equalization may, if the application is found to be satisfactory and if the license fees as herein prescribed shall have been paid, issue to the applicant a license for such movie theatre, for which an application for a license shall have been made. Each licensee shall display the license so issued in a conspicuous place in the movie theatre for which said license is issued.

Display of license.

Renewable quarterly.

Section 4. All licenses shall be issued quarterly on the first day of April, July, October and January. On or before the first day of each such quarter every person, firm, corporation, association or copartnership coming under the provisions of this act shall apply to the state board of equalization for a renewal of such license.

Section 5. Every person, firm, corporation, association or copartnership, opening, establishing, operating or maintaining moving picture theatres within the State under the same management, supervision or ownership, shall pay the license fees hereafter prescribed for the privilege of establishing, operating or maintaining such movie theatres. The license fees herein prescribed shall be paid annually.

Fees.

The license fees herein prescribed are payable quarterly on the first day of April, July, October and January of each year and shall be as follows:

Amount.

One and one quarter (1¼) per centum of the gross proceeds from the sale of tickets of admission in excess of the sum of three thousand dollars ($3,000.00) per quarter.

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Penalty for violation of act.

Section 6. Any person, firm, corporation, copartnership, or association who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined any sum not less than one hundred dollars ($100) nor more than five hundred dollars ($500.00), and no such license shall be issued to the violator for a period of three (3) years next succeeding the conviction.

Disposition fee moneys.

Section 7. Any and all expense incurred by the state board of equalization in the administration of this act shall be paid out of the funds accruing from the fees imposed by and collected under the provisions of this act. License fees, except expenses incurred, shall be paid by the state board of equalization to the state treasurer and the state treasurer shall deposit all of said fees into the general fund.

Churches and schools excepted.

Section 8. No such license fee shall be collected from any school, church, or charitable organization.

Validity of act.

Section 9. If any section, provision or clause of this act should be declared invalid such invalidity shall not be construed to affect the portions of the act not so held invalid.

Repealing clause.

Section 10. That all acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 11. This act shall be in full force and effect from and after July 1, 1937.

Approved March 12, 1937.

CHAPTER 92

An Act to Amend Section 2296, Montana Revised Codes of 1935; Relating to Corporation License Tax, Organizations Exempt Therefrom, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 2296 of the Montana Revised Codes of 1935, be, and the same is hereby amended to read as follows:

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Corporation license tax, organizations exempt therefrom.

"Section 2296. **Corporation License Tax, Organizations Exempt Therefrom.** The term corporation includes associations, joint stock companies, common law trusts and business trusts which do business in an organized capacity whether created under and pursuant to state laws, agreements, declarations of trust. Every corporation, except as hereinafter provided, organized and existing under the laws of the State of Montana and engaged in business therein, shall annually pay to the state treasurer, as a license fee for carrying on business in said State of Montana, three (3) per centum upon the total net income received by such corporation in the preceding fiscal year from all sources within the State of Montana, including interest on bonds, notes or other interest bearing obligations of residents, corporate or otherwise, and including the income derived from dividends on capital stock or from net earnings of resident corporations whose net income is taxable under this title; and every corporation, except as hereinafter provided, organized and existing under the laws of any other state or country, or the United States, and engaged in business in the State of Montana, shall annually pay for the exclusive use and benefit of the State of Montana a license fee for carrying on its business in the State of Montana of three (3) per centum upon the total net income received by such corporation in the preceding fiscal year from all sources within the State of Montana, including the interest on bonds, notes or other interest bearing obligations of residents, corporate or otherwise, and including the income derived from dividends on capital stock, or from net earnings of resident corporations, joint stock companies or associations whose net income is taxable under this title. Every corporation subject to taxation under this act shall, in any event, pay a minimum tax of not less than five dollars ($5.00).

Amount: three per cent of net income.

Source of taxable income.

License fee of foreign corporations.

Amount: three per centum of net income.

Source of taxable income.

Minimum tax of $5.00.

Organizations excluded from act.

There shall not be taxed under this title any income received by any—

Labor, etc., organizations.

First. Labor, agricultural or horticultural organization;

Mutual savings banks.

Second. Mutual savings bank not having a capital stock represented by shares;

Fraternal beneficiary society, etc.

Third. Fraternal beneficiary, society, order or association operating under the lodge system or for the

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exclusive benefit of the members of a fraternity itself operating under the lodge system, and providing for the payment of life, sick, accident or other benefits to the members of such society, order or association or their dependents;

Domestic building and loan associations.

Fourth. Domestic building and loan associations or cooperative bank without capital stock, organized and operated for mutual purposes and without profit;

Non-profit cemetery companies.

Fifth. Cemetery company owned and operated exclusively for the benefit of its members;

Religious and charitable associations.

Sixth. Corporation or association organized and operated exclusively for religious, charitable, scientific or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual;

Chambers of commerce, etc.

Seventh. Business league, chamber of commerce, or board of trade, not organized for profit, and no part of the net income of which inures to the benefit of any private stockholder or individual;

Civic leagues, etc.

Eighth. Civic league or organization not organized for profit, but operated exclusively for the promotion of social welfare;

Social clubs.

Ninth. Club organized and operated exclusively for pleasure, recreation and other non-profitable purposes, no part of the net income of which inures to the benefit of any private stockholder or members;

Farmers' mutual hail and other cooperative companies.

Tenth. Farmers' or other mutual hail, cyclone, or fire insurance company, mutual ditch or irrigation company, mutual or cooperative telephone company, or like organization of a purely local character, the income of which consists solely of assessments, dues and fees collected from members for the sole purpose of meeting its expenses;

Cooperatives for marketing products or purchasing supplies.

Eleventh. Labor, agricultural or horticultural cooperatives organized and operated on a cooperative basis; (a) for the purpose of marketing the products of members or other producers, and turning back to them the proceeds of sales, less the necessary marketing expenses, on the basis of either the quantity or the value of the products furnished by them, or (b) for the purpose of purchasing supplies and equipment for the use of mem-

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bers or other persons, and turning over such supplies and equipment to them at actual cost, plus necessary expenses. Exemption shall not be denied any such association because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the state of incorporation or 6 per centum per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than non-voting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the association, upon dissolution or otherwise, beyond the fixed dividends) is owned by producers who market their products or purchase their supplies and equipment through the association; nor shall exemption be denied any such association because there is accumulated and maintained by it a reserve required by State law or a reasonable reserve for any necessary purpose. Such an association may market the products of non-members in an amount the value of which does not exceed the value of the products marketed for members, and may purchase supplies and equipment for non-members in an amount the value of which does not exceed the value of the supplies and equipment purchased for members, provided the value of the purchases made for persons who are neither members nor producers does not exceed 15 per centum of the value of all its purchases. Business done with the United States, State of Montana or its political subdivisions shall be exempt under this act. Any cooperative association or corporation engaged in the business of operating a rural electrification system or systems for the transmission or distribution of electrical energy on a cooperative basis.

When exemption applies to such associations having capital stock.

Exemption as affected by reserve maintained by association.

Association may market products of and purchase supplies for non-member.

Limitation.

Business with state or United States.

Rural electrifcation associations.

Twelfth. Corporations or associations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this title;

Holding companies.

Thirteenth. In determining the license fee to be paid under this act, there shall not be included any earnings derived from any public utility managed or operated by any subdivision of the State, or from the exercise of any governmental function.

Earnings of public utility managed by any subdivision of state.

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Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 3. This act shall take effect and be in full force from and after its passage and approval. Effective date.

Approved March 12, 1937.

CHAPTER 93

An Act to Provide for the Submission to the Qualified Electors of the State of Montana of an Amendment to Section 5 of Article XVI of the Constitution of the State of Montana Relating to the Qualifications and Terms of Office of County Officers.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 5 of Article XVI of the constitution of the State of Montana be amended as hereinafter provided, and that the question of such amendment be submitted to the qualified electors of the State of Montana at the general election to be held in November, 1938. Amendment of Section 5 of Article XVI of constitution submitted to electors.

Section 2. That Section 5 of Article XVI of the constitution of the State of Montana be, and the same is hereby amended, so as to read as follows: The amendment proposed.

"Section 5. There shall be elected in each county the following county officers who shall possess the qualifications for suffrage prescribed by Section 2 of Article IX of this constitution and such other qualifications as may be prescribed by law: County officers to be elected.

One county clerk who shall be clerk of the board of county commissioners and ex-officio recorder; one sheriff; one treasurer, who shall be collector of the taxes, provided, that the county treasurer, shall not be eligible to his office for the succeeding term; one county superintendent of schools; one county surveyor; one assessor; one coroner; one public administrator. Persons elected to the different offices named in this section shall hold their respective offices for the term of four (4) years, and until their successors are elected and qualified. Vacancies in all county, township and precinct offices, except that of county commissioners, shall be filled by appointment by the board of county commissioners, and

Clerk and ex-officio recorder.
Sheriff.
Treasurer, who is ineligible to succeed himself.
Superintendent of schools.
Surveyor.
Assessor.
Coroner.
Public administrator.
Terms: four years.
Vacancies, how filled.

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the appointee shall hold his office until the next general election; provided, however, that the board of county commissioners of any county may, in its discretion, consolidate any two or more of the within named offices and combine the powers and the duties of the said offices consolidated; however, the provisions hereof shall not be construed as allowing one (1) office incumbent to be entitled to the salaries and emoluments of two (2) or more offices; provided, further, that in consolidating county offices, the board of county commissioners shall, six (6) months prior to the general election held for the purpose of electing the aforesaid offices, make and enter an order, combining any two (2) or more of the within named offices, and shall cause the said order to be published in a newspaper, published and circulated generally in said county, for a period of six (6) weeks next following the date of entry of said order."

Proviso, that board of county commissioners may consolidate any two of above offices.

Incumbent limited to salary of one office.

Publication of order combining offices.

Section 3. This amendment shall be submitted to the qualified electors of the State of Montana by being placed on the official ballot, provided by Section 678 Revised Codes of Montana 1935, and as provided by law, and there shall be printed on such ballot the title of this act and the following words:

Contents of ballot.

☐ For the above amendment

☐ Against the above amendment

The elector shall designate his preference for either of the propositions by making an X before the proposition for which he desires to vote.

Manner of voting.

Section 4. The votes cast for and against the amendment herein proposed shall be counted, canvassed and determined by such officials and in such manner as provided by law, and if a majority of all votes cast at such election for and against such amendment shall be in favor of such amendment, the governor of the State shall so declare by public proclamation, and the amendment shall be in full force and effect as a part of the constitution from and after the date of such proclamation.

Canvassing votes.

Amendment, if voted, to be effective upon proclamation by governor.

Section 5. This act shall be in full force and effect from and after its passage and approval.

Effective date of act.

Approved March 12, 1937.

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CHAPTER 94

An Act to Provide a License Tax on All Persons, Associations, or Corporations Owning or Operating a Telephone Business in This State.

Be it enacted by the Legislative Assembly of the State of Montana:

Annual tax on gross income from telephone business.

Section 1. That on and after the first day of April 1937, there is hereby levied and shall be collected an annual tax of (1¼%) of the gross income derived from any telephone business within this State including the transmission of telephone messages in this State, over telephone lines in this State owned by any person, association or corporation; provided, however, that no bill, statement or account rendered or given any customer shall set out or contain, as a separate item, any amount on account or by reason of the license tax imposed by this act. Such annual license tax shall be paid in quarterly installments for the quarters ending respectively March 31, June 30, September 30, and December 31, in each year.

Proviso, that customer's bill shall not set out tax item.

Tax payable quarterly.

Statement of gross income to be filed with state board of equalization.

Section 2. Each and every person, association or corporation liable to tax under this act engaged in carrying on such telephone business in this State shall, within sixty (60) days after the end of each quarter, beginning with the quarter ending June 30, 1937, make out in duplicate and file with the state board of equalization, under oath, a statement in such form as the state board of equalization may require and prescribe, showing the total gross income of such person, association or corporation derived from the telephone business within this State including the transmission of telephone messages originating and terminating within this State, but excluding therefrom the gross income derived from the transmission of telephone messages passing through this State but both originating and terminating outside of this State and from those originating outside of, but terminating within this State and from those originating within but terminating outside of this State during the preceding quarter, and containing such other information as the state board of equalization may require; and shall accompany such statement with the payment to the state board of equalization of a license tax in amount equal to (1¼%) of such gross income.

Inter-state business excluded.

Statement to be accompanied by tax payment.

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Board to adopt and publish rules.

Section 3. The state board of equalization shall have the power, and it shall be its duty from time to time to adopt, publish and enforce such rules and regulations not inconsistent herewith as it may deem requisite for the purpose of carrying out the provisions of this act.

Penalty on delinquent tax.

Section 4. Any such license tax not paid within the time herein provided for shall be delinquent and a penalty of ten per cent (10%) thereof shall be added thereto and the whole thereof shall bear interest at the rate of one per cent (1%) per month from the date of delinquency until paid.

Taxpayers to keep required records.

Section 5. Each person, association or corporation liable to tax under this act shall keep a record in such form as the state board of equalization shall require showing the total gross receipts, as herein described, and such other information as the state board of equalization may require.

Failure to file statement.

Section 6. Each person, association or corporation, who fails, neglects, or refuses to make and file the statements required by this act in the manner or within the time herein provided, or who shall make any false statement with reference to his said business of operating a telephone business, shall be deemed guilty of having committed a misdemeanor and upon conviction thereof shall be fined in any amount not exceeding one thousand dollars ($1,000.00), or imprisonment in the county jail for not to exceed six (6) months, or shall be punished by the imposition of both such fine and imprisonment.

False statement.

Penalty.

Duty of board upon failure of taxpayer to file statement or pay tax.

Section 7. If any person, association or corporation subject to the payment of such license tax shall fail, neglect or refuse to make any statement required by this act, or shall fail to make payment of such license tax within the time herein provided, the state board of equalization shall, immediately after such time has expired, proceed to inform itself as best it may regarding the matters and things required to be set forth in such statement and from such information as it may be able to obtain, to make a statement showing such matters and things and determine and fix the amount of the license tax due the State from such delinquent person, association or corporation, and shall add thereto a penalty of five per cent (5%) thereof for the first failure, neglect or refusal; ten per cent (10%) for the second;

Percentage penalties.

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fifteen per cent (15%) for the third; and twenty-five per cent (25%) for the fourth, and each subsequent failure, neglect and refusal, which shall be in addition to the ten per cent (10%) penalty hereinbefore provided for non-payment of such license tax within the time herein provided. Said license tax and the penalties added thereto shall bear interest at the rate of one per cent (1%) per month from the date such statements should have been made and said license tax paid. The state treasurer of the State of Montana shall then proceed to collect such license tax with penalties and interest. Upon the request of the state treasurer it shall be the duty of the attorney general to commence and prosecute to final determination, in any court of competent jurisdiction, an action to collect such license tax. All license taxes due from any person, association or corporation under the provisions of this act, together with all penalties and interest thereon, shall be a lien upon any and all property of such person, association or corporation upon the filing by the state board of equalization, of a duplicate copy of the statement so made by the state board of equalization, or a certified copy of any statement filed with said board in the office of the county clerk of the county where such property is situated, which lien shall have precedence over any other claim, lien or demand thereafter filed or recorded and which may be enforced by law. No action shall be maintained to enjoin the collection of such license tax or any part thereof. When the amount due the State is paid in full and before the entry of foreclosure decree, the state treasurer shall release the said lien by filing, in the office of the county clerk wherein is filed the said lien, a written release thereof. At any time prior to the payment of said taxes, penalty and interest, before the entry of foreclosure decree, the state treasurer may release from the operation of said lien a part of said property to enable the person, association or corporation to mortgage, sell or otherwise dispose of the same in order to procure funds with which to pay said license taxes, penalty and interest, provided there remains, in the judgment of the state treasurer, sufficient property subject to said lien to insure the payment of the whole of said unpaid license taxes, penalty and interest.

Interest on tax and penalties.

State treasurer to collect.

Attorney general to prosecute action to collect.

Tax lien upon property of taxpayer.

Filing of statement for lien purposes.

Priority of tax lien.

Action to enjoin collection prohibited.

Release of lien.

Partial release of lien.

Section 8. The books and records of every person, association or corporation shall be open and subject to

Books of taxpayer open to inspection by board.

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inspection by the state board of equalization or any of its employees or assistants during business hours so far as may be necessary to ascertain the amount of license tax due.

Disposition of tax moneys.

Section 9. All moneys received by the state treasurer in payment of license taxes under the provisions of this act shall be deposited by him and credited to the following: Fifty per cent (50%) shall be deposited by the state treasurer to the credit of the general fund of the State, and the remaining fifty per cent (50%) to the state public school general fund.

Constitutionality of act.

Section 10. If any section, sentence, clause or phrase of this act is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this act. The legislative assembly of the State of Montana hereby declares that it would have passed this act irrespective of the fact that any one or more sections, sentences, clauses or phrases may be declared unconstitutional or invalid.

Effective date.

Section 11. This act shall be in full force and effect from and after April 1, 1937.

Approved March 12, 1937.

CHAPTER 95

An Act Providing for the Countersigning by Resident Agents of Insurance Companies Doing Business in This State, of All Policies, Bonds, Duplicate Policies or Contracts of Insurance or Indemnity of Any Kind or Character, or Any General Floating or Group Policies Upon Persons, Property or Against Any Insurable Risk, Located Within the State of Montana, Excepting Herefrom Rolling Stock of Railroad Corporations and Other Common Carriers and Property in Transit, and Excepting Also Herefrom Mutual Associations Organized Upon the Assessment Plan, Fraternal Benefit Associating Rural Mutual Associations, and So-called 'Assessment Life Insurance Companies'; Providing a Penalty for Violation, and Repealing Section 6164 Revised Codes of Montana 1935, and All Acts and Parts of Acts in Conflict Herewith.

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Be it enacted by the Legislative Assembly of the State of Montana:

Forbidding the writing of insurance policies except through resident agent.

Companies excepted.

Section 1. It shall be unlawful for any insurance company or association, including life, fire, casualty, surety or indemnity corporations or associations doing business within the State of Montana (except so-called assessment life insurance companies, as hereinafter provided, and fraternal benefit societies and rural mutual insurance companies) to make, write, place, or cause to be made, written or placed in this State, any policy, bond, duplicate policy, contract of insurance or contract of indemnity of any kind or character, or any general floating group policy upon persons or property, or upon any insurable risk, resident, situated or located in this State, unless written through and countersigned by an agent of this State, duly licensed to transact insurance, bonding or indemnity business therein.

Resident agent to countersign policies and receive full commission.

A resident agent shall countersign all policies, bonds or contracts of indemnity so issued, and shall receive the full commission on all such policies, bonds or contracts of insurance on indemnity, when the premium is paid, to the end that the State may receive the tax required by law to be paid on the premiums collected for insurance on all persons, property or other insurable risks resident, situated or located within this State; provided that nothing in this act shall be construed to prevent any insurance company or association from issuing policies, bonds or contracts at its principal or department offices, covering property or persons or other insurable or indemnity risks resident, situated or located in this State; provided, however, such policies are issued upon application procured and submitted to such company or association by a resident agent, who shall keep a record of all such policies, bonds or contracts of indemnity so issued, and countersign the same, and that said resident agent or agents shall receive the full commission on all policies when premium is paid. It shall be unlawful for any such resident agent to rebate or divide such commission, with intent to evade the provisions of this act; and any violation of this provision shall be punished as provided in Sections 6123 and 6124 Revised Codes of Montana 1935. Provided, however, that the signature of a resident agent on an application for a life insurance policy shall be deemed a countersigning of the policy if a copy of such application is attached to the policy.

Proviso, that insurer may issue policy at principal office on application from resident agent.

Agent to keep record, countersign policy and receive full commission.

Rebate and division of commission forbidden.

Signature of agent on application deemed a countersigning of policy.

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Excepted from act: insurance of railroad rolling stock and property in transit.

Persons or property without state when insurance written.

Section 2. **Exceptions.** No provision of this act is intended to, nor shall it, apply to direct insurance covering the rolling stock of railroad corporations or property in transit while in the possession and custody of railroad corporations or other common carriers, or of property, persons or other risks which were not located, resident nor situated within the State of Montana when said insurance, bond or contract of indemnity was originally written thereon.

Excluded: Assessment life insurance companies.

Fraternal benefit societies.

Mutual rural insurance companies.

Nor shall any of the provisions of this act apply to assessment life insurance companies, as defined in Section 6293 Revised Codes of Montana 1935, nor to fraternal benefit societies having lodge systems, as defined in Section 6305 et seq Revised Codes of Montana 1935, nor to mutual rural insurance companies, as defined in Sections 6170 to 6205 Revised Codes of Montana 1935, each and all of which said companies, societies and associations are hereby expressly excluded from the operation of this act.

Penalty for violation of act.

Section 3. **Penalties.** Any life insurance companies, fire insurance companies, surety or indemnity companies or associations wilfully failing to observe or comply with the provisions of this act shall be guilty of a misdemeanor and shall be subject to and liable to pay a penalty of five hundred dollars ($500.00) for each violation thereof, and for each failure to observe and comply with the provisions of said section, after notice and hearing by the state commissioner of insurance, in the same manner as provided by law for the investigation and punishment by the state commissioner of insurance for other infractions and violations of the insurance laws of this State. Such fines and penalties shall be handled and disposed of by the state commissioner of insurance in the same manner as license fees are now handled and disposed of by said commissioner.

Successive violations.

Disposition of fines.

Commission may revoke authority of company or agent.

After such notice and hearing the commissioner of insurance may, in his discretion, revoke the certificate of authority issued to any corporation, society or agent on his being satisfied, after notice and hearing as provided by law, that such corporation, society or agent has violated any of the provisions of this act. This penalty is in addition to the other penalties herein described.

Cumulative penalty.

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Any corporation, society or agent whose certificate of authority has been revoked may, within fifteen (15) days thereafter, appeal from said order to any district court of this State having jurisdiction over the persons, corporations or agents concerned. Appeal to district court.

Section 4. Any insurance company, indemnity corporation or surety corporation or association whose authority to transact business in this State shall have been so revoked shall not again be authorized or permitted to transact business within the State of Montana until it shall have paid the amount of any fine or fines assessed by the state commissioner of insurance, and shall have filed in the office of the state auditor a certificate signed by its president or other chief executive officer to the effect that the terms and obligations of the provisions of this act are accepted by it as part of the conditions of its right and authority to transact business in this State. Conditions precedent to re-authorization to transact business.

Section 5. Section 6164 and all other acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 6. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved March 12, 1937.

CHAPTER 96

An Act to Amend Section 2396.4 Revised Codes of Montana of 1935, Relating to Refund of Gasoline Tax, so That Counties, Cities and Towns Shall Be Entitled, to Such Refund for Tax Paid on Gasoline Used by Such Counties, Cities and Towns in the Performance of Their Governmental and Proprietory Functions.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 2396.4 of the Revised Codes of Montana of 1935 be, and the same is hereby, amended to read as follows: Amending clause.

"Section 2396.4. That any person who shall purchase and use any gasoline, with reference to which there has been paid into the treasury of the State of Montana, Refund of gasoline tax, to whom allowable.

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under the laws of this State licensing dealers in gasoline, a tax at the rate of five (5) cents per gallon for the purpose of operating or propelling stationary gas engines, tractors used for agricultural purposes other than on the public highways or streets of this State, (except as hereinafter provided) motor boats, aeroplanes or air craft, or for cleaning or dyeing, or for any commercial use other than propelling vehicles upon the public highways or streets of this State, and who has paid said tax either directly or indirectly as a part of the purchase price of said gasoline, shall be allowed and paid a refund or drawback of said tax under the rules and regulations hereinafter stated; provided, that counties and incorporated cities and towns of this State shall be entitled to said refund or drawback of said tax by any such county, city or town upon gasoline used by it in the performance of any of its governmental and proprietory functions, or either, imposed or authorized by law, including construction, maintenance and repair of all roads, highways and public places within the county limits and all streets, avenues, alleys and other public places, within the corporated limits of such city or town. Such refund or drawback shall be allowed and paid in money in an amount equal to five (5) cents multiplied by the number of gallons of gasoline so purchased and used, upon presenting to the board of equalization of the State of Montana, within the time allowed by law, a sworn statement, accompanied by the original paid invoices showing such purchase and use, which statement shall set forth that the tax has been paid, the total amount of such gasoline so purchased upon which he has paid the tax and which has been used by such consumer other than for propelling vehicles operated upon any of the public highways or streets of the State and in the case of counties and incorporated cities and towns, the total amount of such gasoline so purchased and upon which it has paid the tax which has been used by it in the performance of any of its governmental and proprietory functions and which statement shall contain such additional information as may be required by the board of equalization of the State of Montana on forms to be furnished by said board; provided that such refund or drawback shall not exceed the tax imposed by law. All such applications for refunds or drawbacks shall be filed with the board of equalization of the State of Montana

Counties, cities and towns entitled to said refund.

Amount.

Procedure for claiming refund.

When application to be filed.

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within six (6) months after the date on which such gasoline was purchased as shown by such paid invoices. The board of equalization of the State of Montana shall have sixty (60) days thereafter within which to make such investigation as it may desire, to ascertain the truths of the statements made. If the statement is found to be correct by said board of equalization of the State of Montana, said refund or drawback shall be paid out of the gasoline license tax drawback fund in the same manner as other claims against the State are paid. Should the board of equalization of the State of Montana, after investigation, find that the statement so made by said consumer is false and erroneous in any part, it shall so report to the state treasurer and shall at the same time make and file with the state treasurer a correct statement of the amount of gasoline so used by such purchaser, and the state treasurer shall then so pay to such purchaser the amount found by the board of equalization of the State of Montana to be due him."

Duty of board of equalization.

Payment by state treasurer.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved March 12, 1937.

CHAPTER 97

An Act to Amend Section 2153 of the Revised Codes of Montana, 1935, Relating to a Lien on Personal Property Taxes and Defining Priority of Personal Property Taxes as Applied to Real Estate and Permitting Payment and Redemption From the Lien Thereof.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 2153 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Amending clause.

"Section 2153. **Tax on Personal Property Lien on Realty—Separate Assessment.**

(a). Every tax due upon personal property is a prior lien upon any or all of such property, which lien shall

Personal property tax lien.

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have precedence over any other lien, claim or demand upon such property, and except as hereinafter provided, every tax upon personal property is also a lien upon the real property of the owner thereof, from and after 12 M. of the first Monday in March in each year.

Lien upon real property.

(b). The taxes upon personal property based upon a taxable value up to and including one thousand dollars ($1000.00) shall be a first and prior lien upon the real property of the owner of such personal property; taxes upon personal property based upon the taxable value thereof in excess of one thousand dollars ($1000.00) shall be a first and prior lien upon the real property of the owner unless the owner or holder of any mortgage or other lien upon said real property appearing of record in the office of the clerk and ex officio recorder of the county where such real property is situated at or before the time such personal property tax attached thereto shall have filed the notice hereinafter provided for, in which event the taxes upon such excess of one thousand dollars ($1000.00), of taxable value shall not be a lien on the real property of such owner. It shall be the duty of the county treasurer to issue to any mortgagee or lien holder, upon his request, a statement of the personal property tax due upon the taxable value up to and including one thousand dollars ($1000.00); and personal property taxes upon a taxable value up to one thousand dollars ($1000.00) may be paid, redeemed from a tax sale as by law provided, or discharged separate from any personal property taxes in excess of such amount. Payment of such taxes upon a taxable value up to one thousand dollars ($1000.00) as herein provided, shall operate to discharge the tax lien upon the personal property of the owner to the extent of such payment in the order that the person paying such tax shall direct.

Protection of mortgage lien.

Severance of personal property tax.

Payment discharges lien to extent of payment.

Notice by holder of mortgage lien.

(c). The holder of any mortgage or lien upon real property who desires to obtain the benefits of this section shall file in the office of the county assessor and in the office of the county treasurer of said county a notice giving;

(1) the name and address of the mortgagee and holder of the mortgage or lien;

(2) the name of the reputed owner of the land;

(3) the description of the land;

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(4) the date of record and expiration of the mortgage or lien;

(5) the amount thereof; and

(6) a statement that he claims the benefit of the provisions of this section; and such notice shall be ineffectual as to any taxes which shall have become a lien on real property prior to the filing of such notice as aforesaid. If the mortgage be not paid at maturity, such notice shall thereafter be filed annually, unless the mortgage be extended for a definite period to be stated in such notice.

Taxes prior to notice not affected.

Notice as to past due mortgage.

(d). Provided, that any owner of a mortgage on real estate upon which personal property taxes are by this act made a lien, and where the owner of such real estate and personal property has failed to pay taxes due upon such real estate and personal property for one or more years, may file with the county assessor of the county in which such property is located a writen request to have the personal property and real estate of the owner separately assessed. Such request must be made by registered mail at least ten (10) days prior to the first Monday in March in the year for which property is assessed. Upon receipt by the assessor of such request, it is hereby made the duty of the county assessor to make a separate assessment of real and personal property of the owner thereof and such personal taxes shall not be a lien upon the real estate so mortgaged of the owner thereof and the said personal property taxes shall be collected in the manner provided by law for other personal property."

Separate assessment of personal and real property, when.

Request by owner of real estate mortgage.

Personal taxes not lien upon mortgaged real estate.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved March 12, 1937.

CHAPTER 98

An Act to Amend Section 4613.4 Revised Codes of Montana of 1935, Relating to County Budgets; Providing for Hearings Thereon, the Manner in Which Appro-

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priations Contained Therein Shall Be Made and the Amounts Thereof Determined, the Time and Manner of Final Adoption, the Time and Manner for Fixing Tax Levies, Requiring Copies Thereof to Be Filed With the State Examiner and Fixing a Penalty for Failure to so File Copies.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 4613.4, Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

"Section 4613.4. **Hearings on Budget—Adoption—Fixing Tax Levies.** On the Wednesday immediately preceding the second Monday in August the county commissioners shall meet at the time and place designated in the notice provided for in Section 4613.3, at which time any taxpayer may appear and be heard for or against any part of such budget. Such hearing shall be continued from day to day and shall be concluded and terminated and the budget finally approved and adopted on the second Monday in August and before the fixing of the tax levies by such board.

Taxpayers hearing on budget.

Time for adoption of budget.

Upon the conclusion of such hearing the board shall first determine and fix the amount which it is estimated will accrue to each fund during the fiscal year from all sources, except the taxation of property, but in so doing the board shall not include any amount which it is anticipated may be received during the fiscal year from the payment of taxes which became delinquent during any preceding fiscal year, or years. The board shall then determine and fix separately the amount appropriated for and authorized to be expended for each item in the budget and shall specify the fund or funds against which warrants are to be drawn and issued for the expenditures so authorized; provided that there shall not be added to the amount to be appropriated and authorized to be expended for any item, or to the total amount appropriated and authorized to be expended from any fund any amount or percentage whatever because of any anticipated loss of revenue by reason of the nonpayment of taxes levied for such fiscal year; and provided further that the amount appropriated and authorized to be expended for any item contained in such budget, except for capital outlay, election expenses, expenditures from

Determining amounts to accrue to the several funds.

Separate appropriation for budget items.

Proviso, that non-payment of taxes shall not be anticipated.

Limitation of appropriations for budget items and funds.

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county poor funds, and payment of emergency warrants and interest thereof, must not exceed by more than ten per centum (10%) the amount actually expended for such item under the appropriation contained in the budget approved and adopted for the fiscal year immediately preceding, and the total amount appropriated and authorized to be expended from any fund, except for capital outlay, election expenses and payment of emergency warrants and interest thereon, shall not exceed by more than ten per centum (10%) the total amount actually expended for all purposes, except for capital outlay, election expenses, expenditures from county poor funds, and payment of emergency warrants, from such fund under the appropriation made from such fund in the budget approved and adopted for the fiscal year immediately preceding; provided further that the foregoing limitations shall not apply to appropriations and expenditures authorized to be made from the county poor fund for payment of bonds and emergency warrants and interest thereon; and provided further that the total expenditures authorized to be made from any fund, including reserve added thereto as hereinafter provided, shall not, in any event, exceed the aggregate of the cash balance in such fund at the close of the fiscal year immediately preceding, the amount of estimated revenues to accrue to such fund, as determined and fixed in the manner herein provided, and the amount which may be raised for such fund by a lawful tax levy during the fiscal year.

County poor fund excepted.

Limitation of expenditures from the several funds.

The board shall then determine and fix the amount to be raised for each fund by tax levy by adding together the cash balance in the fund at the close of the fiscal year immediately preceding and the amount of the estimated revenues, if any to accrue thereto during the current fiscal year, as before ascertained and determined, and then deducting the total amount so obtained from the total amount of the appropriations and authorized expenditures from the fund as determined and fixed by said board, the amount remaining being the amount necessary to be raised for the fund by tax levy during the current fiscal year; provided that the board may add to the amount so found necessary to be raised for any fund by tax levy during the current fiscal year, an additional amount as a reserve to meet and care for expenditures to be made from such fund during the months of July

Determination of amounts to be raised and estimated revenues.

Amount of tax levy.

Levy for reserve.

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to November, inclusive, of the next ensuing fiscal year under the annual budget to be thereafter adopted for such next ensuing fiscal year, but the amount which may be so added to any fund, as such reserve for such purpose, shall not exceed one-third of the total amount appropriated and authorized to be expended from such fund during the current fiscal year, after deducting from the amount of such appropriations and authorized expenditures the total amount, if any, therein appropriated and authorized to be expended for election expenses and payment of emergency warrants; provided further that the total amount, to be raised by tax levy for any fund, during such current fiscal year, including the amount of such reserve and any amount for payment of election expenses and emergency warrants, must not exceed the total amount which may be raised for such fund by a tax levy which does not exceed the maximum levy permitted by law to be made for such fund.

Total levy not to exceed maximum fixed by law.

What final budget shall set out.

The budget as finally determined, in addition to setting out separately each item for which any appropriation or expenditure is authorized and the fund out of which the same is to be paid, shall set out the total amount appropriated and authorized to be expended from each fund, the cash balance in the fund at the close of the last preceding fiscal year, the amount, if any, which it is estimated will accrue to the fund from sources other than taxation, the reserve, if any, for the next ensuing fiscal year, and the amount necessary to be raised for each fund by tax levy during the current fiscal year. The board shall then by resolution approve and adopt the budget as so finally determined and enter the same at length and in detail in the official minutes of the board.

Adoption.

Fixing tax levy for each fund.

On the second Monday in August, and after the approval and adoption of the final budget, the board of county commissioners shall fix the tax levy for each fund at such rate as will raise the amount set out in such budget as the amount necessary to be raised by tax levy for such fund during the current fiscal year, and no more; provided, that the taxable valuation of the county for the then current fiscal year shall be the basis for determining the amount of the tax levy for each fund, and each tax levy shall be at a rate no higher than is required on such basis, without including any amount

Basis for tax rate.

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for anticipated tax delinquency, to produce the amount set out in the budget without including any amount for anticipated tax delinquency, as being the amount to be raised by tax levy, and shall be made in the manner provided by Section 2148.1, Revised Codes of Montana, 1935.

Anticipated tax delinquency not to be considered.

The county clerk and recorder shall, not later than the fifteenth day of September following, forward a full, complete, itemized and detailed copy of the final budget, together with the tax levies made therefor, to the state examiner. If any county clerk and recorder shall fail, refuse, or neglect to forward such copy of the budget to the state examiner within such time, the state examiner shall, before the first day of October immediately following, notify the board of county commissioners of such county that such copy of budget has not been forwarded to him by the county clerk and recorder, and such board of county commissioners must thereupon withhold from said county clerk and recorder his salary for the month of September until such time as such county clerk and recorder shall file with such board a receipt from the state examiner showing the receipt by him of such copy."

Clerk to send copy to state examiner.

Withholding salary of county clerk for failure to send copy.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved March 12, 1937.

CHAPTER 99

An Act to Submit to the Qualified Electors of the State of Montana an Amendment to Sections 6, 7, 8, 9, 10 and 11 of Article XXI of the Constitution of the State of Montana Relating to the Investment and Administration of the Public School Permanent Fund, the Other Permanent Funds Originating in Land Grants From the United States for the Support of Higher Institutions of Learning, and of Other Funds as Separate and Integral Funds of the Montana Trust and Legacy Fund.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Sections 6, 7, 8, 9, 10 and 11 of Article XXI of the constitution of the State of Montana

Submission of amendment to electors.

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be amended as hereinafter provided, and that the question of such amendment be submitted to the qualified electors of the State of Montana at the next general election.

Proposed amendments.

Section 2. That Sections 6, 7, 8, 9, 10 and 11 of Article XXI of the constitution of the State of Montana be, and the same are hereby amended to read as follows:

Investment of certain funds as parts of Montana trust and legacy fund.

"Section 6. (of Article XXI) The public school permanent fund, the other permanent funds originating in land grants from the United States for the support of higher institutions of learning, and for other state institutions, subject to investment, shall be invested as parts of the Montana trust and legacy fund; so also all other funds in the custody of any officer or officers of the State, subject to investment, that the legislative assembly may prescribe. The separate existence and identity of each and every fund invested and administered as a part of the Montana trust and legacy fund shall be strictly maintained.

Identity of funds to be maintained.

Transfer of investments.

All investments belonging to the public school permanent fund, except investments in state farm mortgage loans, and all investments belonging to the said land grant funds, shall be transferred to the Montana trust and legacy fund at the full amounts of the unpaid balances of such investments.

Permanent funds of political subdivisions to be accepted for investment.

Section 7. (of Article XXI) The State shall accept for investment and administration as parts of the Montana trust and legacy fund, sinking funds, permanent funds, cumulative funds and trust funds belonging to or in the custody of any of the political subdivisions of the State when requested to do so by the governing board of such political subdivision, subject, however, to such limitations as the legislative assembly may prescribe. The legislative assembly may provide for the investment and administration as a part of the Montana trust and legacy fund of any other fund subject to its power.

Power of legislative assembly.

Investment of Montana trust and legacy fund.

Section 8. (of Article XXI) The Montana trust and legacy fund shall be safely and conservatively invested in public securities within the State, as far as possible, including school district, county and municipal bonds, and bonds of the State of Montana; but it may also be partly invested in bonds of the United States, bonds fully guaranteed by the United States as to principal and

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interest, and federal land bank bonds. All investments shall be limited to safe loan investments bearing a fixed rate of interest. In making long term investments preference shall be given to securities payable on the amortization plan or serially. The legislative assembly may provide additional regulations and limitations for all investments from the Montana trust and legacy fund.

Securities preferred.

Power of legislative assembly.

All existing constitutional guarantees against loss or diversion applying to the public school fund, to the funds of the state university and to the funds of all other state institutions of learning, shall remain in full force and effect.

Constitutional guarantees as to certain funds.

Section 9. (of Article XXI) On the last day of March, of June, of September and of December of each year, the state treasurer shall apportion all interest collected for the Montana trust and legacy fund during the three month period then terminating to all the separate and integral funds which constitute such fund on the day of such apportionment and which constituted parts of the fund on the first day of the three month period then terminating. The basis of apportionment shall be the average amount of each such fund between the first day and the last day of the three month period.

Apportionment of interest collected.

Section 10. (of Article XXI) The state treasurer shall keep all deposits of money belonging to the Montana trust and legacy fund separate and distinct from other deposits of money in his keeping.

Separate deposit of money of fund.

Section 11. (of Article XXI) All money in any of the separate and integral funds constituting the Montana trust and legacy fund and the interest apportioned therefrom, shall be subject to payment to the person, institution or other entity entitled thereto, without appropriation by the legislative assembly, upon proper authorization as provided by law."

Money in integral funds payable without legislative appropriation.

Section 3. That separate official ballots shall be provided at the general election to be held in November, 1938, which shall have printed thereon under the heading "Proposed Amendment to Sections 6, 7, 8, 9, 10 and 11 of Article XXI of the Constitution of the State of Montana" all of the said Sections 6, 7, 8, 9, 10 and 11 as amended by this act. There shall also be printed on the official ballots following the said sections the following:

Separate ballots.

Contents.

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☐ For the foregoing amendment to the constitution.

☐ Against the foregoing amendment to the constitution.

Method of voting. The elector shall indicate his preference by marking X before the proposition for which he desires to vote.

Canvass of votes. Section 4. That the votes cast for and against this proposed amendment shall be canvassed, determined and declared as provided by law.

Repealing clause. Section 5. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Effective date. Section 6. That this act shall be in full force and effect from and after its passage and approval by the governor.

Approved March 15, 1937.

CHAPTER 100

An Act to Amend Section 2215.2 of the Revised Codes of Montana, 1935, Relating to Tax Deeds and Providing the Method and Procedure to Be Followed in Applying for a Tax Deed and for the Issuance Thereof by Action in the District Court and Outlining the Essentials of a Complaint in Such Proceedings and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause. Section 1. That Section 2215.2 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

"Section 2215.2. The action shall be commenced by the filing of a verified complaint in which the parties so commencing the same shall be named as plaintiff and

Parties to action. all persons having an interest in said property, or in any part thereof, either as owner, encumbrancer, or otherwise, whose interest shall appear of record in the office of the county clerk and recorder of the county in which the action is instituted, together with the county treasurer

County as applicant. of said county, shall be named as defendants; if the county is the applicant, the action shall be brought in

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the name of the county clerk and recorder of said county; the complaint shall, among other things, set forth the description of the real property involved, the year in which the delinquent taxes were assessed, the amount for which the property was sold, the amount of taxes subsequently paid, the date of the sale of said property, the person to whom sold, the nature of the interest in each separate part of said land held by the respective defendants, or any of them, and the amount of money necessary to redeem the said lands from said sales. Several tracts of land, contiguous or non-contiguous, and whether owned by different defendants and whether sold at the same time, or at different times, may be set forth in one complaint and all persons claiming any title to, or interest in, or lien upon, any of said premises, or any part thereof, although their said claims are independent and not in common and do not cover the same tracts, may be joined as defendants. The rule of procedure outlined by this section shall apply to all actions brought to procure a tax deed hereunder and that may now be pending as well as all actions hereafter commenced under the provisions of this section."

Contents of complaint.

Action may include several tracts of land.

All persons claiming interest may be joined as defendants.

Procedure applicable to pending and future actions.

Section 2. All acts, and parts of acts, in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved March 15, 1937.

CHAPTER 101

An Act to Amend Section 2207 of the Revised Codes of Montana, 1935, Authorizing the Assignment by County Treasurers of Duplicate Certificates of Tax Sale Issued to Counties on Sales of Property for Taxes.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 2207 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Amending clause.

"Section 2207. **Assignment of Rights of County in Property Acquired at Sale—Form of Certificate.** At any

Assignment of right of county in land bid in at tax sale.

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time after any parcel of land has been bid in by the county as the purchaser thereof for taxes, as provided in Section 2191, the same not having been redeemed, the county treasurer shall assign all the right of the county therein, acquired at such sale, to any person who shall pay the amount for which the same was bid in, with interest thereon at the rate of one per cent per month, and the amount of all subsequent delinquent taxes, penalties, costs, and interest, as provided by law, upon the same from time to time when such tax became delinquent. He shall execute to such person a certificate for such parcel, which may be substantially in the following form:

Form of certificate of assignment by county treasurer.

I, ..., the treasurer of the county of .....State of Montana, do hereby certify that at the sale of lands pursuant to the tax assessment for the year 19....., in the county of..... ....., and which sale was held on the.....day of ....., 19....., for the purpose of liquidating said assessment, the following described parcel of land, situate in said county of ....., State of Montana, to-wit, (insert description) was duly offered for sale; that there was no purchaser in good faith for the same as provided by law on the first day the property was offered for sale; and thereafter, on the..... day of....., 19....., I again offered said property for sale at the place advertised for such sale, and no person or purchaser offered to take the same and pay the taxes, cost, and charges due as aforesaid, the whole amount of the property assessed and described as above was struck off to the county of..... .....as the purchaser thereof for the sum of ....., and the same still remaining unredeemed, and on this day.....having paid into the treasury of said county the amount for which the same was bid in, together with all subsequent delinquent taxes, penalties, cost, and interest, amounting in all to.....dollars;

Now, therefore, in consideration thereof, and pursuant to the statute in such case made and provided, I do hereby assign and set over all the right, title and interest of the county of....., State of Montana, acquired in said lands under and by virtue of said sale, to the said....., his heirs and assigns, forever, together with all the rights, powers, and

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privileges of the said county of.....to take steps to receive a deed thereof, or receive payment in case of a redemption, subject, however, to redemption as provided by law.

Witness my hand and official seal of office this..... day of....., 19.....

.....
County Treasurer.

Provided, that, in case the certificate herein above described shall by accident become lost or destroyed by the assignee, then in such an event the county treasurer shall issue a duplicate certificate to the assignee after the said county treasurer is convinced that the said certificate has been lost or destroyed and after the said assignee has made an affidavit to that effect." Duplicate in lieu of lost certificate.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved March 15, 1937.

CHAPTER 102

An Act Amending Section 2396.3 of the Revised Codes of Montana of 1935, Providing for the Determination and Use of Percentages of Uncompleted Mileage in Highway Districts in Distributing the State Highway Fund for Construction Purposes.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 2396.3 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows: Amending clause.

"Section 2396.3. **Determination and Use of Percentages of Uncompleted Mileage in Districts.** At the start of the fiscal year beginning July 1, 1937, and ending June 30, 1938, the state highway commission shall compute from its records the percentage of uncompleted mileage within each of said districts which each district respectively bears to the total uncompleted mileage of Determination and use of percentages of uncompleted mileage in districts.

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said federal highway system within this State at that time, and for that fiscal year the state highway commission shall use the percentages so computed in allotting to each of said districts construction moneys from the state highway fund as defined and provided by Section 2396.2. At the beginning of each fiscal year thereafter the same procedure shall be carried out, and the actual respective percentages of uncompleted mileage in each district as so computed and determined at the beginning of each fiscal year shall be used in allotting said moneys to said districts for that fiscal year. As a basis for the determination of the amount of uncompleted mileage of said federal highway system in this State for each fiscal year, the state highway commission shall adopt as the criterion the current definition, as prescribed by the federal bureau of public roads, for a fully and adequately completed federal highway in this State having proper engineering standards of alignment, width, grades, drainage, and with an oil or dustless surface conforming to said federal requirements. This criterion shall be considered as a one hundred percent completed federal highway; and federal highway mileage which is only graded, or which is only graded and surfaced with untreated crushed gravel or rock, or which is otherwise only partially completed under the application of this criterion, shall be considered as only partially completed on a percentage basis, this to be determined from the relative estimated percentage costs of construction already performed and of additional construction which must be performed to bring said mileage up to the standard of said criterion."

Annual computation for use in allotment of moneys to district.

Basis for determination of uncompleted mileage.

Partially completed highway mileage.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 15, 1937.

CHAPTER 103

An Act to Amend Sections 9443 and 9444 of the Revised Codes of the State of Montana of 1935, Relating to the Redemption of Real Property From Execution Sales; Redemption Money and Computation of Amount to Be Paid; Providing Who May Be Redemptioners

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Thereof, and Providing When the Judgment Debtor, or His Wife, or Redemptioner May Redeem.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 9443 of the Revised Codes of the State of Montana of 1935, be, and the same is hereby amended to read as follows:

Redemption money; computation of amount to be paid.

"Section 9443. **Redemption Money—Computation of Amount to Be Paid.** The judgment debtor, or redemptioner, may redeem the property from the purchaser any time within one year after the sale, on paying the purchaser the amount of his purchase, with one-half of one per cent (½%) per month thereon in addition, up to the time of redemption, together with the amount of any assessment or taxes which the purchaser may have paid thereon after purchase, and interest on such amount, and if the purchaser be also a creditor, having a prior lien to that of the redemptioner, other than the judgment under which such purchase was made, the amount of such lien with interest."

Amending clause.

Section 2. That Section 9444 of the Revised Codes of the State of Montana of 1935, be, and the same is hereby amended to read as follows:

Redemptioners' rights.

"Section 9444. **Redemptioners' Rights—Manner of Redeeming—When Purchaser Entitled to Deed—Certificate of Redemption—Redemption by Stockholders—Redeeming From Wife.** If property be so redeemed by a redemptioner, another redemptioner may, within sixty (60) days after the last redemption, again redeem it from the last redemptioner on paying the sum on such last redemption, with interest thereon at the rate of one-half of one per cent (½%) per month in addition, and the amount of any assessment or taxes which the last redemptioner may have paid thereon after the redemption by him, with like interest on such amount, and, in addition, the amount of any liens held by the said last redemptioner prior to his own, with interest; but the judgment under which the property was so sold need not be so paid as a lien. The property may be again, and as often as any redemptioner is so disposed, redeemed from any previous redemptioner, within sixty (60) days after the last redemption, on paying the sum paid on the last previous redemption, with interest there-

Amount payable by subsequent redemptioner.

Successive redemptions.

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on at the rate of one-half of one per cent (½%) per month, and the amount of any assessment or taxes which the last previous redemptioner paid after the redemption by him, with like interest thereon, and the amount of any liens, other than the judgment under which the property was sold, held by the last redemptioner previous to his own, with like interest. Written notice of redemption must be given to the sheriff, and a duplicate filed with the county clerk, and if any taxes or assessments are paid by the redemptioner, or if he has or acquired any liens other than that upon which the redemption was made, notice thereof must in like manner be given to the sheriff and filed with the county clerk; and if such notice be not filed, the property may be redeemed without paying such tax, assessments, or lien. If no redemption be made within one year after the sale, the purchaser, or his assignee, is entitled to a conveyance; or, if so redeemed, whenever sixty days have elapsed, and no other redemption has been made, and notice thereof given, and the time for redemption has expired, the last redemptioner, or his assignee, is entitled to a sheriff's deed; but in all cases, the judgment debtor shall have the entire period of one year from the date of the sale to redeem the property. If the judgment debtor or his wife redeem, he or she must make the same payments as are required to effect a redemption by a redemptioner. If the debtor redeem, the effect of the sale is terminated, and he is restored to his estate. If the wife redeem, she shall become the owner of her husband's interest, subject to any liens thereon at the time of the execution sale. Upon a redemption by a debtor, or his wife, the person to whom the payment was made must execute and deliver to him or her a certificate of redemption, acknowledged or proved before an officer authorized to take acknowledgments of conveyances of real property. Such certificate must be filed and recorded in the office of the county clerk of the county in which the property is situated, and the county clerk must note the record thereof in the margin of the record of the certificate of sale.

Notice of redemption.

When purchaser entitled to conveyance.

Judgment debtor's right to redeem.

Redemption by wife of debtor.

Certificate of redemption.

Notation by county clerk.

Redemption by stockholder and by corporation and other stockholders.

If a stockholder of a corporation redeems, the corporation, within one (1) year after the date of sale, may redeem by paying to the redemptioner, or the sheriff for his benefit, the amount paid to effect the redemption, with interest thereon at the rate of one-half of one per

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cent (½%) per month from the date of redemption until the date of such payment, together with any taxes or assessments that may have been paid by the redemptioner, with like interest thereon. When a stockholder redeems, any other stockholder or stockholders may, at any time after such redemption, and within sixty (60) days after the expiration of one (1) year from the date of sale, contribute to the redemption by paying to the redeeming stockholder, or depositing with the sheriff for his benefit, a sum which bears the same proportion to the amount necessary to redeem which the number of shares owned by such contributing stockholder or stockholders bears to the number of shares of such corporation outstanding, with interest on such sum from the date of redemption until the date of contribution at the rate of one-half of one per cent (½%) per month, together with a like proportion of the taxes or assessments paid by such redeeming stockholder, with like interest thereon, and if the corporation does not redeem the property within the time and in the manner and form as aforesaid, the said redeeming and contributing stockholders shall be entitled to receive a sheriff's deed for such property so redeemed, and shall succeed to the said property as tenants in common in such proportions, respectively, as they shall respectively pay or contribute to such redemption as aforesaid. The redeeming or contributing stockholder shall, in all cases when applying to redeem or contribute as aforesaid, present an affidavit, setting forth the number of shares of stock owned by him, and to the best of his knowledge, the number of shares of stock of the corporation outstanding.

When.

Amount to be paid.

When stockholders entitled to deed.

Affidavit by stockholder.

If the wife of a judgment debtor redeem, the husband, within one year after the date of sale, may redeem by paying the wife or her successors in interest or the sheriff for her or their benefit, the amount paid to effect the redemption, with interest thereon at the rate of one-half of one per cent (½%) per month from the date of redemption until the date of such payment, together with any taxes or assessments that may have been paid by the wife or her successors in interest, with like interest thereon."

Redemption by debtor when wife has redeemed.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

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Effective date.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 15, 1937.

CHAPTER 104

An Act Requiring Conformity in Interest Payments on County, City and Town Funds With Acts of Congress of the United States and Regulations of Fiscal Agencies of the United States.

Be it enacted by the Legislative Assembly of the State of Montana:

Interest requirements on public funds to conform to federal statute or regulations.

Section 1. The interest requirements on deposits of public funds under the laws of the State of Montana or otherwise by county, city and town treasurers shall not at any time be in violation of any act of the congress of the United States or of any rule or regulation of the federal reserve system or the Federal Deposit Insurance Corporation or any other fiscal agency of the United States or created by it, of which the banks of this State generally may be members or debtors.

Repealing clause.

Section 2. So much of any existing laws as are inconsistent with the intent and purpose of Section 1 of this act, and all acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 15, 1937.

CHAPTER 105

An Act Providing for the Abandonment and Abolishment of Counties and for Attaching the Territory of Abandoned and Abolished Counties to Adjoining Counties, Upon Vote of the Electors of Such Counties and the Procedure Therefor; Providing That the Terms of Office of Members of Boards of County Commissioners, Officers of Such Counties, and Representatives and Senators of Such Counties in the Legislative Assembly

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of the State of Montana Shall Cease and Terminate Upon the Abandonment and Abolishment of Counties; Providing for the Payment of the Indebtedness of Such Counties and for Tax Levies for Such Purpose; and Providing for the Disposition of the Moneys, Credits and Property Owned by Abandoned and Abolished Counties.

Be it enacted by the Legislative Assembly of the State of Montana:

Counties may be abandoned.

Section 1. The organization and corporate existence of any county organized under the laws of this State may be abandoned and abolished and the territory within its boundaries attached to and made a part of some adjoining county in the manner provided by this act.

Petition for election.

Section 2. A petition may be filed with the county clerk of a county, asking that the question of abandoning and abolishing the organization and corporate existence of such county and attaching its territory to and making the same a part of some adjoining county, be submitted to the qualified electors of such county at an election. Such petition shall state the name of the adjoining county to which the territory of such county, so to be abandoned and abolished, shall be attached and made a part; such petition shall be signed by not less than thirty-five per centum (35%) of the qualified electors of the county whose names appear upon the registration records of such county, shall contain the post office address and voting precinct of each person signing the same, and shall state the name and address of three persons to whom notice of the insufficiency of the petition shall be sent in the event that the petition shall not have the required number of signatures of qualified electors signed thereto. It shall be the duty of the county clerk, within thirty days after the filing of such petition to examine the same, to ascertain and determine from the registration records of the county whether such petition is signed by the required number of qualified electors. Such clerk may be authorized by the board of county commissioners to employ additional help in his office to assist him in the work of examining such petition and such board shall provide for their compensation. When such examination is completed said clerk shall forthwith attach to such petition his certificate, properly dated and signed, showing the result of his examination, and if said certificate

Contents and number of signers.

Duty of county clerk.

Additional help.

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shows that said petition is signed by the required number of qualified electors, said clerk shall immediately present said petition to the board of county commissioners, if such board be then in session, otherwise at its first regular meeting after the date of such certificate. No person, after signing any such petition shall be allowed or permitted to withdraw his signature or name therefrom.

Signers may not withdraw.

Board of county commissioners to order election.

Section 3. Whenever any such petition is presented to the board of county commissioners of a county with a certificate of the county clerk attached thereto, showing that said petition has been signed by not less than thirty-five per centum (35%) of the qualified electors of such county whose names appear upon the registration records of said county, as provided in Section 2 of this act, said board of county commissioners shall immediately upon presentation of such petition, make and enter an order in its minutes fixing a day for considering and taking final action on said petition, which shall be not less than thirty (30) nor more than thirty-five (35) days after the date when said order is made, and shall cause a notice to be published in the official newspaper of the county to the effect that such petition has been presented to such board asking for the abandonment and abolishment of the county and that said board will meet at the time specified in said order for considering and taking final action on said petition, at which time any and all registered electors of the county interested therein may appear and be heard thereon. Such notice shall be published once a week for two (2) successive weeks immediately following the making of such order.

Notice and hearing on petition.

Publication.

Separate petition for attachment of part of county to another county.

At any time prior to five (5) days before the date fixed for consideration and final action on such petition fifty per centum (50%) of the registered electors residing within a particular part or portion of such county, may file with the county clerk of such county a petition in writing signed by them praying that the part or portion of such county within which such petitioners reside shall not be attached to the county designated in the petition for abandonment but shall be attached to some other adjoining county, which petition shall definitely, particularly and accurately describe the boundaries of such part or portion of said county which said petitioners desire to be attached to such other adjoining county and shall specify and name such other adjoining county to

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which such part or portion is to be attached if said county is abandoned and abolished. Whenever any such petition is filed the county clerk shall immediately examine the same and determine from the registration records of the county whether such petition has been signed by the required number of registered electors and shall attach thereto his certificate showing the total number of registered electors residing within the boundaries described in said petition and the number thereof whose names appear on said petition, and shall deliver such petition with such certificate attached, to the board of county commissioners when such board meets to consider and take final action on such petition for abandonment, separate and independent petitions may be filed by registered electors residing within the boundaries of separate and distinct and different parts or portions of such county, praying that the territory embraced within the boundaries described therein may be attached to and become parts of the same, or different adjoining counties, other than the county named and designated in the petition for abandonment, if said county is abandoned. No person after signing any such petition shall be allowed or permitted to withdraw his signature or name therefrom.

Duty of county clerk.

Signers may not withdraw.

Section 4. On the day fixed by the board for consideration and final action on such petition for abandonment the board shall meet and examine and consider all petitions which may have been filed praying that particular parts or portions of said county, if abandoned, be attached to an adjoining county or counties, other than the county named in such petition for abandonment, and shall determine the sufficiency of each such petition filed, and shall enter its findings with regard thereto in its minutes, and said board shall thereupon adopt a resolution, which shall be in writing and also entered in full in its minutes, and which shall be in substantially the following form:

Board of commissioners to determine sufficiency of all petitions.

WHEREAS, there has been filed with the clerk of (name) county, Montana, a petition asking that the organization and corporate existence of said county be abandoned and abolished and its territory attached to and made a part of an adjoining county, to wit, the county of (name), Montana;

Form of resolution.

AND WHEREAS, said petition has been presented to the board of county commissioners of (name) county,

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with a certificate of the clerk of said county attached thereto showing that said petition has been signed by not less than thirty-five per centum (35%) of the registered electors of said county;

(If any petition for attaching any part or portion of the county, in case of abandonment to an adjoining county or counties, other than the county named in the petition for abandonment, and found to have been signed by the required number of registered electors, insert the following for each petition)

AND WHEREAS, there has been filed a petition signed by not less than fifty per centum (50%) of the registered electors residing within that part or portion of said county described as (give description as contained in petition) praying that the part or portion of said county within such boundaries be attached to and made a part of the county of (name of county given in petition) if said county be abandoned;

NOW THEREFORE BE IT RESOLVED, that if said (name) county shall be abandoned and abolished the territory embraced within its boundaries shall be attached to and become part of the following. (If all to be attached to one adjoining county so state, but if parts or portions to any other county or counties, then describe the part or portion to go to each adjoining county as well as to the county named in the petition for abandonment.)

AND BE IT FURTHER RESOLVED, that the county clerk of (name) county, Montana, make copies of this resolution, each with a copy of said petition for abandonment, with the signatures omitted therefrom (and copies of petitions for attaching parts or portions of said county to adjoining county or counties, other than the county named in the petition for abandonment, if any were filed and found sufficient, with signatures omitted) and certify to the same and affix the seal of the county thereto, and transmit one of said copies to the governor of the State of Montana, and one of said copies to the clerk of each county to which any part of said county is to be attached, if abandoned.

Resolution to be signed.

Said resolution must be signed by the members of the board of county commissioners and the county clerk must, within five (5) days thereafter, make the certified copies

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of said resolution, with copy of petition or petitions attached, and transmit one copy to the governor of the State of Motnana and one copy to the county clerk of each county to which any part or portion of said county is to be attached, if abandoned.

Transmitting certified copies.

Section 5. Upon receipt of a certified copy of the resolution provided for in Section 4 of this act, the governor shall, within ten days thereafter, issue his proclamation calling a special election in the county in which the petition referred to in said resolution was filed, and in each county designated in such resolution as a county to which any of the territory of such county, if abandoned and abolished, shall be attached and made a part, at which election there shall be submitted to the qualified electors of the county in which such petition was filed the question of whether or not such county shall be abandoned and abolished and its territory attached to and made a part of the county designated and named for such purpose in said petition, and at which election there shall be submitted to the qualified electors of each county named and designated in such resolution as a county to which a part of the territory of the county, proposed to be abandoned and abolished, shall be attached and made a part, if such county shall be so abandoned and abolished, the question of whether or not such part of the territory of such county, if abandoned and abolished, described in such resolution, shall be attached to and become a part of such county. Such proclamation shall fix a day for holding such election in such counties, which shall be not less than ninety days nor more than one hundred and twenty days after the date of the date of the governor's proclamation calling the same; provided that if a general election will be held in said counties within one hundred and twenty days after the date of such proclamation, the governor, in such proclamation, shall direct that such question be submitted to the qualified electors of said counties at such general election. Such proclamation shall be filed in the office of the secretary of state and copies thereof shall be transmitted by the governor to the county clerk of each of the counties in which such election is to be held.

Governor to call special election in counties affected.

Questions to be submitted to electors in respective counties.

Date of election.

Filing proclamation and copies.

Section 6. The county clerk of each of such counties after receiving a copy of such election proclamation shall present the same to the board of county commissioners,

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if such board is then in session, and if not in session, then at the first meeting thereof held after such clerk has received the same, and the board of county commissioners of each of such counties shall issue such proclamations and give such notices of election as are required by the general laws of this State when questions are to be submitted to the qualified electors of a county at an election and which proclamation and notices shall include a description of the boundaries of that part of the county proposed to be abandoned and to be attached to and made a part of such county, if said county be abandoned, and the county clerk of each of such counties shall give notice of the closing of the registration books and shall cause the same to be closed at the time and in the manner provided by the general registration and election laws of this State.

Boards of county commissioners to issue proclamation and notices.

Notice of closing of registration.

Section 7. At such election the question to be submitted to the qualified electors of the county in which said petition was filed shall be as follows:

Question to be submitted in county proposed to be abandoned.

☐ For the abandonment and abolishment of the county of (name) and attaching the territory within its boundaries to and making the same a part of the county or counties of (name)

☐ Against the abandonment and abolishment of the county of (name) and attaching the territory within its boundaries to and making the same a part of the county or counties of (name).

Question submitted in counties to which territory is to be attached.

And the question to be submitted to the qualified electors of the counties, designated in the resolution as the county or counties to which the territory of the county proposed to be abandoned and abolished, is to be attached and made a part, shall be as follows:

☐ For attaching to and making a part of the county of (name) a part of the territory within the boundaries of the county of (name) if the same is abandoned and abolished.

☐ Against attaching to and making a part of the county of (name) a part of the territory within the boundaries of the county of (name) if the same is abandoned and abolished.

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Said election shall be held, voted, counted and returns made and canvassed in the manner provided by the general election laws of this State.

Conduct of election.

Section 8. The board of county commissioners of each county, acting as a canvassing board, must within ten (10) days after the holding of such election canvass the returns of such election, and within five (5) days thereafter the clerk of each such county must make and enter in the records of said board a statement of the vote in such county and tranmit to the secretary of state, by registered mail, an abstract thereof, which shall be marked "Election Returns". Within ten (10) days after receiving such abstracts from all counties in which such election was held, and on notice from the secretary of state, the board of state canvassers shall meet and canvass, compute and determine the vote, and the secretary of state, as secretary of such board must make and file in his office a statement thereof and transmit a copy thereof to the governor. Upon receipt of such copy the governor shall issue a proclamation declaring the result of such election and shall file a copy of such proclamation in the office of the secretary of state and transmit a copy of such proclamation to the county clerk of each of the counties in which such election was held, and each such county clerk shall file the same in his office and present the same to the board of county commissioners of his county, if such board is then in session, otherwise at the first meeting of the board after the same has been received by such clerk.

Canvass of election returns.

Transmittal of statement to secretary of state.

State canvassers to canvass vote.

Governor to proclaim result.

Section 9. If, at such election a majority of the votes cast in the county in which such petition was filed shall be cast in favor of the abandonment and abolishment of such county, and a majority of the votes cast in the county, designated in the petition for abandonment as the county to which the territory of the abandoned county shall be attached, shall be in favor thereof, then the organization and political and corporate existence of the county in which such petition for abandonment was filed shall cease and terminate and said county shall be abandoned and abolished and disincorporated and cease to exist and its territory shall be attached to and become a part of the counties designated in the resolution adopted under Section 4 of this act, and the term of office of each of the officers thereof, and of the members of

Abandonment of county as determined by results of elections.

Termination of county offices.

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the board of county commissioners thereof, and of its senator and representative in the legislative assembly shall cease and terminate at twelve (12:00) o'clock midnight on the thirtieth day of June immediately following; provided that if at any such election a majority of the votes cast in any adjoining county named in the resolution adopted under Section 4 of this act, other than the county designated in the petition for abandonment as the county to which the territory of the abandoned county shall attach, shall be against the attaching of any portion of the territory of the abandoned county to such adjoining county, then such portion of such territory described in said resolution shall be attached and become a part of the county designated in such resolution for abandonment as the county to which the territory of the abandoned county shall attach.

Proviso, as to adverse vote in county to which portion of old county was to be attached.

Townships.

Section 10. The townships of a county abandoned and abolished under this act shall be townships of the county to which the territory within such townships is attached until such time as they may be changed by the board of county commissioners of such county and the justices of the peace and constables in such townships shall continue to hold such offices for the terms for which they were elected; provided that if a township of such abandoned county is divided and a part attached to one and a part attached to another adjoining county then the board of county commissioners of the county to which attached, until further order of such board, shall attach such territory to an adjoining township within such county, and the terms of office of the justices of the peace and constables within such divided township shall cease and terminate at twelve (12:00) o'clock midnight of the thirtieth day of June immediately following.

Proviso, as to divided townships.

Property of abandoned county: where part of territory is attached to another county.

Section 11. Each county to which any part of the territory of an abandoned county is attached and made a part shall succeed to, have, possess and own all real estate, and all improvements thereon, and all tangible property and all county highways situated within the territory of the abandoned county attached to such county, and all certificates of tax sale to lands and improvements thereon situated within such territory, and shall have the same right and power to sell and assign such certificates and to apply for and obtain tax deeds to such lands and improvements, and to sell and dispose

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of the same as were or would have been possessed by the abandoned county if it had not been abandoned.

Balance of property and rights of abandoned county to vest in county designated.

Section 12. The county designated in the petition for the abandonment of a county as the county to which the territory of the abandoned county shall be attached, subject to the provisions of this act, shall succeed to, have, possess and own all other property, assets, liens, right, remedies and claims of every kind owned and belonging to or possessed by the abandoned county on the date when the same ceases to exist, and shall have the right to demand, collect and receive any and all moneys to which such abandoned county was entitled for taxes for which tax sales had not been held, licenses and other demands remaining unpaid on the date when such abandoned county ceased to exist and to enforce in any manner authorized by law any and all of such rights, remedies and claims.

Removal of records.

Section 13. All maps, plats, papers, documents, records, record books, indexes and files of every kind and description belonging to an abandoned and abolished county, or in the possession of any of the officers thereof, on the date when such county ceases to exist, shall be, immediately after such county ceases to exist, removed to the county seat of the county designated in the petition for abandonment as the county to which the territory of the abandoned and abolished county is to be attached, and the same shall be delivered over to the custody of the proper officers of such county and be placed in the proper offices thereof, and shall thereafter constitute the maps, plats, papers, documents, records, record books, indexes and files of such county, and the cost and expense of such transfer and removal shall be paid by warrants ordered drawn and issued by the board of county commissioners of such county against the general fund of such abandoned and abolished county.

Transcription of records affecting territory attached to another county.

If any part of an abandoned county shall be attached to and become a part of any adjoining county, other than the county designated in the petition for abandonment, it shall be the duty of the board of county commissioners of the county designated in said petition for abandonment, to enter into a contract with some competent person or persons for transcribing so much of the records of said abandoned county as affects or relates to the property in that portion of the abandoned county

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which has been attached to such other county, and to prepare complete and proper indexes for such transcribed records, and when completed to transmit such transcribed records and indexes to such other county; provided, that if portions of such abandoned county have been attached to more than one adjoining county, the board of county commissioners may enter into separate contracts for transcribing the records for each of such other counties or may enter into one contract for transcribing the records for all of such other counties; provided that chattel mortgages, mechanic and other liens, and other instruments filed, but not recorded, shall not be transcribed, but the original instruments shall be transmitted to such other county or counties. The cost of transcribing, indexing and transmitting such records shall be paid by warrants drawn by the board of county commissioners letting such contracts on the general fund of the abandoned county. All of the provisions of Sections 4412, 4413 and 4414, Revised Codes, 1935, shall apply to such transcribed records.

Proviso: when territory attached to more than one other county.

Proviso: transcription of instruments filed but not recorded.

Cost of transcribing.

Section 14. All valid and existing contracts entered into by a county abandoned and abolished under this act, and which, by the terms thereof, will extend beyond the time when such county ceases to exist, shall continue in full force and effect as contracts of the county designated in the petition for abandonment as the county to which the territory of the abandoned and abolished county is attached and made a part; provided that if the abandoned and abolished county shall have theretofore entered into a printing contract in accordance with the provisions of Sections 4482 to 4482.2, inclusive, Revised Codes, 1935, or acts amendatory or supplemental thereto, and such contract shall be in full force and effect on the date when such county ceases to exist, all supplies and printing for the county designated in the petition for abandonment as the county to which the territory of the abandoned and abolished county is attached and made a part shall be, by the board of county commissioners of such county divided between such contract and any similar existing contract entered into by the board of county commissioners of such county in such manner as such board of county commissioners shall deem equitable and just to the holders of both such contracts until the contract entered into by the abandoned and abolished county shall have expired; provided further, that when

Contracts of abandoned county.

Printing contracts.

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a petition has been filed with the county clerk of a county for the abandonment and abolishment of such county, in accordance with the provisions of Section 2 of this act, the board of county commissioners of such county shall not thereafter enter into any contract under the provisions of said Sections 4482 to 4482.2 or amendatory or supplemental acts, until the time has expired when such petition may be presented to such board by the county clerk as provided in Section 2 of this act.

Contracts subsequent to filing petition prohibited.

Section 15. All claims and demands for salaries, services, wages, materials, supplies and for all other current expenses and for claims and demands accruing under contracts, against any abandoned and abolished county, and for which said county was liable at the time it ceased to exist and which had not been approved and warrants issued therefor prior to the time it ceased to exist, shall be presented to the board of county commissioners of the county designated in the petition for abandonment as the county to which its territory is attached and made a part and all such claims and demands shall be acted on by the board of county commissioners of such county and warrants shall be issued in payment thereof in the same manner as though the same had been incurred by such county; provided that all such warrants shall be drawn and issued against the proper funds of such abandoned and abolished county; and provided further, that no such claim or demand shall be approved or warrant issued in payment thereof if the amount of such claim or demand exceeds the unexpended balance of appropriation for such purpose contained in the budget of the abandoned and abolished county for the year in which the same was incurred.

Claims and demands against abandoned county.

Payable by designated county.

Payment limited by unexpended budget appropriators of abandoned county.

Section 16. All moneys in each of the funds of an abandoned and abolished county shall be transferred to and paid over by the treasurer thereof to the treasurer of the county designated in the petition for abandonment as the county to which its territory is to be attached and becomes a part and shall be by such treasurer kept and maintained in separate funds in the name of such abandoned and abolished county, and used and applied for paying warrants issued against such funds by the abandoned and abolished county prior to the time it ceased to exist, and for paying warrants issued against such fund by the board of county commissioners of the county to

Funds transferred to designated county.

How kept and used.

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which it is attached and becomes a part under the provisions of Sections 13 and 15 of this act, and the interest on such warrants; provided that moneys in any bond sinking and interest funds of such abandoned and abolished county shall be used and applied for the sole purpose of paying the interest and principal becoming due on unpaid and outstanding bonds of such county. Taxes levied for all such funds which were delinquent on the days when such county ceased to exist, and for which tax sales had not been held and all licenses and other moneys owing to such county at such time shall be collected by the treasurer of the county designated in the petition for abandonment as the county to which its territory is to be attached and becomes a part and placed in and deposited to the credit of the funds of such abandoned and abolished county to which the same properly belong. When all warrants issued and outstanding against any fund of an abandoned and abolished county, with the interest thereon, have been fully paid, any balance standing to the credit of such fund shall be transferred to any other fund or funds of such county in which there is not sufficient money to pay the warrants issued and outstanding against the same with interest thereon, and if, after payment of all warrants issued against all such funds and balances remain in any thereof the same shall be transferred to and become a part of the bond sinking and interest funds of such abandoned county.

Bond funds.

Delinquent taxes levied for such funds.

Balance of funds, transfer of to other funds of abandoned county.

(a) After all warrants have been drawn and issued against the funds of an abandoned and abolished county under the provisions of Sections 13 and 15 of this act, if it shall appear to the satisfaction of the board of county commissioners of the county designated in the petition for abandonment as the county to which the territory of the abandoned and abolished county is to be attached and made a part, that the money in the several funds of such abandoned and abolished county, together with all moneys which may be received for such funds from the payment and collection of delinquent taxes, unpaid licenses and other sources, owing to such abandoned and abolished county, will be insufficient to pay all outstanding and unpaid warrants issued and drawn against such funds, then the board of county commissioners of such county shall make an order creating a special warrant district and shall include within such

Special warrant district.

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district all of the territory embraced within the boundaries of the abandoned and abolished county at the time it ceased to exist, and said board shall thereafter, and at the time of making and fixing tax levies for county purposes, make and fix a levy against all taxable property within such special warrant district for the payment of said warrants and the interest thereon, and the proceeds of such levy, when collected, shall be deposited by the county treasurer in a separate fund which shall be used for the payment of said warrants and interest and for no other purpose; provided that said tax levy need not be made at such a rate as will pay all of said warrants, with interest, in one year, but if said board of county commissioners shall deem it for the best interests of the taxpayers owning property within such special warrant district, such levy may be spread over a term of not more than three years.

Tax levy on property in such district.

Proviso, as to rate and spread of levy.

(b) If it shall appear to the satisfaction of the board of county commissioners that a tax levy sufficient to pay such warrants and interest when spread over a term of three years will be too great a hardship on and too burdensome to the taxpayers owning property within the boundaries of such abandoned and abolished county, said board, instead of creating such special warrant district shall create and establish a special funding bond district and shall include within the boundaries thereof all of the territory embraced within the boundaries of such abandoned and abolished district at the time it ceased to exist. The board of county commissioners and the county clerk of the county to which the territory of such abandoned and abolished county has been attached and made a part shall be, respectively, the board of trustees and the clerk of such district and the county treasurer shall act as the treasurer thereof. The board of trustees shall adopt an appropriate seal for such district. After such district has been created and established the board of trustees shall direct the county treasurer to use and apply all moneys in the several funds of the abandoned and abolished county, except moneys in any bond sinking and interest funds, to the payment of warrants issued and outstanding against such funds, with the interest thereon, and said board of trustees shall thereupon issue and sell bonds of such special funding bond district in an amount sufficient to pay all warrants against such funds remaining outstanding and

Special funding bond district.

Officers of such district.

Trustees to issue bonds to pay warrants.

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unpaid, with the interest thereon, and the proceeds derived from the sale of such bonds shall be used for such purpose and no other. Such bonds shall not be issued for a longer period than ten (10) years, and shall be issued without submitting the question of doing so to any election. There shall be inserted and made a part of each such bond statements setting forth the purpose for which the same are issued and that said bonds do not incur, create or constitute any indebtedness or obligation whatever on the part of the county of (naming the county whose board of county commissioners, acting as such trustees, are issuing such bonds) but that the principal and interest thereof will be paid by special millage taxes levied against all of the taxable property situated within the boundaries of such special funding bond district. Such bonds shall be issued in the name of such district, shall be signed by the trustees, the clerk shall attest the same and affix the seal of the district thereof and they shall be registered in the office of the county treasurer who shall certify such registration on such bonds. Except as otherwise provided herein, and in so far as the same are not in conflict herewith, all of the provisions of Chapter 356 Revised Codes 1935, and amendatory acts shall apply to, govern and control the issuance, sale and payment of such bonds, with the interest thereon, and the levying of taxes for such purposes. All taxes levied for the payment of the principal and interest of such bonds and all taxes levied by the abandoned and abolished county for all of its funds, except, bond sinking and interest funds, and delinquent at the time such county ceased to exist, and all moneys owing to such abandoned and abolished county from all other sources, shall be, when collected, paid into a special sinking and interest fund and used for the purpose of paying the principal and interest of such bonds, and for no other purpose.

Election not necessary.

Conditions of bonds.

Signing and registering.

Statutes applicable.

Moneys to be used for payment of bonds.

Special district for payment of unpaid bonds of abandoned county.

(c) If any abandoned and abolished county shall have outstanding and unpaid any bonds at the time it ceases to exist, the territory within the boundaries of such county as they existed when such county so ceased to exist, shall constitute a special district for the payment thereof. The board of county commissioners of the county designated in the petition for abandonment as the county to which the territory of such county is to be attached and made a part shall annually levy a tax

Tax levy.

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against all taxable property in such taxing district sufficient to pay the interest and principal of such bonds as the same become due, and all of the provisions of Chapter 356 Revised Codes 1935, and amendatory acts, applicable thereto, shall apply to, govern and control the levying and collection of such taxes and the payment of interest and principal thereof by the boards and officers of the county within which such district is situated.

Statutes applicable.

Any and all moneys in any bond sinking and interest funds of such abandoned and abolished county, when transmitted and paid over to the treasurer of the county to which the territory of such abandoned and abolished county has been attached, shall be credited to and deposited in a sinking and interest fund, and all taxes levied for the payment of such bonds and interest and delinquent at the time such county ceased to exist, and all taxes levied for such sinking and interest fund in accordance with the provisions of this section, and all other moneys coming to the hands of such county treasurer for the use or benefit of such abandoned county when not required for any other purposes under the provisions of this act, shall be deposited to the credit of such sinking and interest fund and used for the payment of the principal and interest of such bonds and for no other purpose.

Moneys in bond funds of abandoned county.

Moneys applicable to payment of bonds.

Whenever any levy is made under the provisions of Subdivisions (a), (b) or (c) of this section the county clerk of the county in which the board of county commissioners make such levy shall immediately certify such levy to the county clerk of each other county to which any part of the territory of the abandoned county has been attached, and the county clerk of each such other county shall compute and extend the taxes against the property within the portion of the abandoned county which has been attached to his county and the treasurer of such county shall collect the same at the same time and in the same manner that other taxes are collected by said county treasurer, and each such treasurer shall, at least twice each year, once during the second week in December and once during the second week in June, transmit the amount of all such taxes paid to and collected by him, and then in his hands as county treasurer, to the treasurer of the county in which the board of county commissioners made such tax levy.

Procedure between counties as to taxation.

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Disposition of fund balances and accruing moneys in abandoned district.

Section 17. If, after all warrants issued and drawn by an abandoned and abolished district during its existence against its several funds and all warrants drawn and issued against said funds under the provisions of Sections 13 and 15 of this act, have been fully paid with the interest thereon, any balance remains in such funds, such balance, with any and all moneys thereafter accruing to any of such funds from the collection of delinquent taxes, unpaid licenses, and from other sources shall be deposited to the credit of any special sinking and interest fund for the payment of district funding bonds issued under the provisions of Subdivision (b) of Section 16 of this act, and if there be no such fund then to the credit of any bond sinking and interest fund under Subdivision (c) of Section 16 of this act; and after all warrants issued and drawn against any of such funds with the interest thereon, all district funding bonds issued under the provisions of Subdivision (b) of Section 16 of this act and all bonds referred to in Subdivision (c) of Section 16 of this act, have been fully paid, then any balance remaining in any of such funds and all moneys accruing to any or all of such funds thereafter from any and all sources, shall be deposited to the credit of such funds of the county designated in the petition for abandonment as the county to which the territory of the abandoned and abolished county has been attached and made a part as its board of county commissioners may direct.

Property situated in abandoned county not taxable for indebtedness of adjoining county.

Section 18. Whenever a county is abandoned and abolished and its territory is attached to and made a part of an adjoining county, under the provisions of this act, none of the property situated within the boundaries of such abandoned and abolished county shall be subjected to taxation or taxed for the payment of any indebtedness of such adjoining county which may exist at the time such territory is attached to and made a part of such adjoining county.

(a) After all warrants have been drawn and issued against the funds of such adjoining county to pay the claims and demands existing against such county, on the date when the territory of such abandoned and abolished county was attached to such adjoining county, all moneys in the funds of such adjoining county shall be used and applied in payment of the warrants drawn against its

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respective funds, and if such moneys are not sufficient to pay all of such warrants, with the interest thereon, then the board of county commissioners shall make an order creating a special warrant district and shall include within such district all of the territory of such adjoining county, but shall not include therein any of the territory of such abandoned and abolished county, and shall thereafter and at the time of making levies for county purposes, levy a special tax against all taxable property in such district to pay the warrants, with interest thereon, outstanding against the funds of said county; provided that the board of county commissioners, may, in its discretion extend such tax levy over a period of not to exceed three years.

Special warrant district within adjoining county.

Special tax on property therein.

(b) If it shall appear to the board of county commissioners that it will require too large a tax levy to pay such warrant indebtedness with interest thereon within three years, such board, instead of creating a special warrant district, shall create and establish a special funding bond district and shall include within the boundaries thereof all of the territory within such adjoining county, but shall not include therein any of the territory of the abandoned and abolished county attached to such adjoining county. Such board of county commissioners may, after all moneys in the several funds of said county applicable thereto, have been applied in payment of such outstanding warrants and interest thereon, and without submitting the question of doing so to an election, may issue bonds in an amount sufficient to pay and redeem all such warrants remaining outstanding, with interest thereon. Such bonds shall be issued in the name of said adjoining county, and shall contain recitals to the effect that the principal and interest thereof will be paid by millage tax levies against the property situated within the boundaries of said county as the same existed before the territory of such abandoned and abolished county was attached thereto, and that none of the property within the territory of such abandoned and abolished county will be subjected to such levies. Except as otherwise provided herein said bonds shall be issued and sold, tax levies shall be fixed and made to pay the principal and interest thereof as the same becomes due in the manner provided by Chapter 188 Session Laws 1931 and amendatory acts, and all

Special funding bond district in adjoining county.

Bonds.

Recitals.

Tax levies.

Statutes applicable.

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the provisions thereof, so far as applicable thereto, shall apply to such bonds.

Property in abandoned county not taxable for bonds of adjoining county.

(c) If an adjoining county to which the territory of an abandoned and abolished county is attached and made a part shall have outstanding and unpaid bonds, at the time such territory is attached to and made a part of such county, such bonds shall be the indebtedness of such adjoining county, and none of the property situated within the territory of the abandoned county shall be subjected to any taxes to pay the principal or interest of such bonds, but such taxes shall be levied only against the property within the boundaries of such adjoining county as the same existed before the territory of the abandoned and abolished county was attached to and made a part thereof.

Duty of assessor of abandoned county as to current assessment.

Section 19. The county assessor of a county abandoned and abolished under the provisions of this act shall, within ten (10) days after it comes to exist deliver to the county assessor of each county to which any part of its territory had been attached and become a part of all assessment lists, reports, documents and instruments relating to, concerning, or in any way affecting the assessment during the then current assessment year of all taxable property within such portion of such abandoned and abolished county, and it shall be the duty of the assessor of the county, to whom such assessment lists, reports, documents and instruments have been delivered by the assessor of the abandoned and abolished county, to complete all assessments and to fully assess, during the then current assessment year, all taxable property situated or located, on the first Monday of March of such year, within the boundaries of such part of such abandoned and abolished county, and each such county assessor shall, in all matters and things connected in any way with the making of such assessments, have, possess and exercise all of the powers and rights and shall perform all of the duties which the assessor of the abandoned and abolished county would, or could have had, possessed, exercised or performed if such county had not been abandoned and abolished. The county assessor of such abandoned and abolished county shall, until twelve (12:00) o'clock midnight of the thirtieth day of June when said county ceases to exist, aid and assist the county assessors of the counties to which any part of the territory so to be abandoned and abolished will be attached and

Assessor in other county.

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made a part, in the listing and assessing of all taxable property situated or located within each of such counties to the end that all taxable property within the boundaries of such abandoned county will be fully assessed and taxed.

Use and disposition of property of abandoned county.

Section 20. Each county to which any part of an abandoned and abolished county is attached and made a part and becoming the owner under the provisions of this act of the real and any tangible personal property of an abandoned and abolished county may use all of such property for county purposes, or may lease any of such real estate or sell any of such real estate or personal property provided that no such personal property having a value in excess of one hundred dollars ($100.00) shall be sold unless the same has been appraised within one year immediately prior to the date of sale by three taxpayers, residing within the territory embraced within the boundaries of the abandoned and abolished county, appointed by the judge of the district court to which the county succeeding to the ownership of such property is attached, on petition of the board of county commissioners thereof, and no sale of any such personal property shall be made except at public sale after notice or for a price less than ninety per centum (90%) of such appraised value; provided further, that no such real property shall be leased unless the board of county commissioners shall present to the judge of the district court to which the county is attached a petition describing the real estate, with any improvements thereon, and setting forth the terms of the proposed lease, and the same shall be approved by such judge, which approval shall be endorsed on such petition and filed in the office of the clerk of said county; and provided further that no real estate shall be sold by said board of county commissioners unless the same has been appraised within one year immediately prior to the date of sale by three taxpayers residing within the territory embraced within the boundaries of the abandoned and abolished county, appointed by the judge of the district court to which the county is attached, on petition of the board of county commissioners of such county, and every such sale of real estate shall be made at public sale and notice of such sale shall be published once a week for at least two weeks immediately prior to the date for holding the same, in the official newspaper of the county, and

Appraisal of personal property before sale thereof.

Procedure for leasing real property.

Sale of real estate.

Procedure.

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no such real estate shall be sold for a price less than ninety per centum (90%) of the appraised value thereof.

Purchase price, how payable.

The full purchase price of any real estate so sold shall not be required to be made in one payment but the purchaser thereof may pay the same in four installments, the first of which shall be not less than twenty-five per centum (25%) of the purchase price to be paid at the time of purchase, the remainder to be paid in three equal annual installments with interest thereon at not less than five per centum (5%) per annum. All real estate sold, with any improvements thereon, shall be subject to assessment and taxation annually to the purchaser or his successor in interest, at a value equal to the amount paid on the purchase price thereof until the purchase price is fully paid when such real estate shall be assessed at its full cash value, and any and all improvements placed on any such real estate, after its purchase, shall be subject to assessment and taxation at the full cash value thereof. Whenever the purchase price of any real estate is to be paid in installments the board of county commissioners shall enter into a contract with the purchaser thereof and such contract shall be recorded in the office of the county clerk. When payment in full has been made for any personal property or real estate the chairman of the board of county commissioners shall execute and deliver the proper bill of sale or deed to the purchaser, or his successor in interest.

Real estate sold subject to assessment at value equal to purchase price.

Installment purchase contract.

Bill of sale ordered.

Compensation of appraiser.

Moneys from property in other county to be transmitted to designated county.

Disposition of proceeds.

Applied to warrants of abandoned county.

The compensation of all appraisers appointed under the provisions of this section shall be fixed by the district judge appointing the same. Moneys received from leases or sales of real or personal property by any county other than the county designated in the petition for abandonment as the county to which the territory of the abandoned county is to be allocated shall be transmitted by the officers of such counties to the treasurer of the county designated in such petition for abandonment. All moneys received from the sales of personal property and from the leasing or sales of real estate, after deducting therefrom the amounts paid appraisers and for publishing notices of sale, shall be used and applied as follows: If there are any warrants issued and outstanding against any of the funds of the abandoned and abolished county such moneys shall be applied in payment of such warrants and interest; if there are no such warrants outstanding

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but district bonds have been issued under the provisions of Subdivision (b) of Section 14 of this act then such moneys shall be deposited in the sinking and interest fund for such district bonds; if there be no such district bonds outstanding then such moneys shall be deposited to the credit of the sinking and interest funds for bonds issued and outstanding when the abandoned and abolished county ceased to exist, and if there be no such bonds outstanding and unpaid, then such moneys shall be apportioned to all of the counties to which parts of the abandoned county were attached in the proportion which the assessed valuation of the property in each such part on the first day of January immediately preceding the abandonment bears to the assessed valuation of all the property in such abandoned county and deposited in such funds of such county as the boards of county commissioners of such counties may direct.

Next, to sinking fund for district bonds.

Next distributed to other counties pro rata.

Section 21. It is intended by the provisions of this act that no part of the indebtedness of an abandoned and abolished county shall be assumed by, become an obligation of or paid by a county to which the territory of the abandoned and abolished county is attached and made a part, but that all moneys in all funds of an abandoned and abolished county at the time it ceases to exist and all moneys thereafter received by such funds from the payment of taxes delinquent, unpaid licenses and from all other sources, owing to such county at the time it ceased to exist, and all moneys received from the rental or sale of the property owned by such county shall be used for the payment of its indebtedness existing at the time it ceased to exist and the cost and expense of attaching its territory to and making it a part of any adjoining county, and such county to which any part of its territory is attached and made a part shall receive only such balance of any such moneys as may remain after all of the such indebtedness and cost is fully paid.

Intention of act as to indebtedness of abandoned county.

Section 22. All school districts and other special districts of an abandoned and abolished county shall continue as and be such school districts and special districts of the county to which such territory is attached and becomes a part, and the members of the boards of trustees or directors of such school districts or other special districts shall continue to be the trustees and directors thereof until the terms of office for which they were

School districts and special districts to continue.

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elected or appointed shall expire; provided that if any of such school districts shall bear the same numbers as school districts of the county to which the territory within the boundaries of such abandoned and abolished county is attached and made a part, the county superintendent shall either renumber the school districts of said abandoned and abolished county or shall give them such designation, in addition to their numbers, as will distinguish them from the districts in the county to which such territory is attached and made a part; and provided further that if the territory of any school district shall be divided and parts attached to two or more counties such school district shall be a joint school district of such counties.

Proviso, as to change of numbers borne by districts.

Districts funds.

All funds of all school districts and of all other special districts of an abandoned and abolished county shall be transferred to and paid over to the county treasurer of the county to which the territory of such school district is attached and becomes a part, and shall be accounted for by said county treasurer as the funds of such districts, provided that if a joint school district is created the state superintendent of public instruction shall designate the county treasurer to whom such funds are to be transferred and paid over. All taxes levied for all school funds and funds of other special districts of such abandoned and abolished county, remaining unpaid at the time said county ceased to exist, and all other moneys which would have accrued to such funds if said county had not been abandoned and abolished, when received by such county treasurer, shall be deposited to the credit of the proper school or special district funds.

County high school in abandoned county.

Section 23. If a county high school shall have been established in any abandoned and abolished county when such county ceases to exist such county high school shall become the high school of the district in which it is situated or located, and all property, both real and personal owned by such county or acquired for and used in connection with the maintenance and operation of such county high school, shall become and be the property of such school district to be used by such school district for the maintenance and operation of such district high school, and all lawful existing contracts of such county high school shall be assumed by and become the contracts of such school districts. The terms of office of all trustees of such county high school shall cease and terminate

Termination of office of trustees.

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at the time the existence of said abandoned and abolished county shall cease and terminate.

Transfer of funds.

All moneys in all county high school funds shall be transferred and paid over to the treasurer of the county to which the territory in which the school district succeeding to the property of the county high school is attached and made a part, and used and applied as follows:

How applied.

Sinking and interest funds.

Any moneys in any bond sinking and interest funds shall be used for the payment and interest on any unpaid and outstanding high school bonds; if there shall be outstanding any high school warrants at the time such county high school ceases to exist, then all moneys in such county high school funds, except sinking and interest funds, shall be used for the payment of such warrants, with interest thereon; if there be no such high school warrants outstanding then the moneys in such funds shall be transferred to the high school fund of the school district which, under the provisions of this act is to maintain such high school as a district high school, and if such moneys are insufficient to pay all outstanding warrants with the interest thereon then such warrant indebtedness shall be assumed by and become warrant indebtedness of such school district.

Next, to payment of warrants.

Next, to high school fund of district.

Unpaid taxes levied for sinking fund.

All taxes levied for any sinking and interest fund for county high school bonds and remaining unpaid at the time the abandoned and abolished county ceases to exist, when collected, shall be deposited to the credit of such fund; and all taxes levied for high school purposes and remaining unpaid when such county ceases to exist, and all other moneys which would have gone to such high school if the county had not been abandoned and abolished, when collected shall be deposited to the proper high school funds of the district in the county to which the territory of the abandoned and abolished county has been attached and made a part.

Same, for high school purposes.

Repealing clause.

Section 24. All acts and parts of acts in conflict with this act are hereby repealed.

Effective date.

Section 25. This act shall be in full force and effect from and after its passage and approval.

Approved March 15, 1937.

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CHAPTER 106

An Act to Amend Section 3241.1 of the Revised Codes of Montana, 1935, Being an Act to Regulate the Practice of the Profession of Public Accounting or Auditing, Providing for the Qualifications and Examination and Admission of Applicants and the Issuance of Certificates Thereto.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 3241.1 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

University to issue certificate of public accountant.

Required qualifications of "certified public accountant."

"Section 3241.1. The certificate of "certified public accountant" shall be granted by the State University of Montana (hereinafter referred to as the university) to any person who is (a) a citizen of the United States or who has duly declared his or her intention of becoming such citizen, and who is and has been a resident of the State of Montana for at least one (1) year prior to the date of his application, and (b) who is over the age of twenty-one (21) years, and (c) who is of good moral character, and (d) who is a graduate of a high school with a four (4) years' course or has had an equivalent education, or who, in the opinion of the board, has had sufficient commercial experience in accounting so that, in the judgment of the board, the requirement of a four-year high school course or equivalent education may be waived, and (e) who shall have successfully passed examinations in the theory and practice of general accounting, in auditing, in commercial law as affecting accountancy, and in such other related subjects as the board of accountancy may deem advisable."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 15, 1937.

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CHAPTER 107

An Act to Amend Section 4749.7 of the Revised Codes of Montana of 1935, Relating to the Salary and Bond of Officers Upon Consolidation of Two or More County Offices; Providing for the Appointment of Deputies of Officers of a Consolidated Office; Providing That the County Commissioners Shall Determine the Number of Deputies.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 4749.7 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Salary and bond of officer upon consolidation of offices.

"Section 4749.7. **Salary and Bond of Officer Upon Consolidation.** When two or more offices are consolidated under a single officer, such officer shall receive the highest salary provided by law to be paid to any officer whose duties he is required to perform by reason of such consolidation and shall give a bond in the same amount as would have been required of such officer; provided, that where county offices are consolidated as herein above described, that the officer of the consolidated offices shall have any deputies they may appoint who shall be approved by the board of county commissioners; and provided further, that the board of county commissioners shall determine the number of deputies, stenographers and clerks the said officers may appoint."

Deputies.

Number of.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 15, 1937.

CHAPTER 108

An Act to Amend Sections 5278.1 and 5278.6 of the Revised Codes of Montana, 1935, Providing for the Creation of Indebtedness by Cities and Towns and the Submission Thereof to the Electors.

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Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 5278.1 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

"Section 5278.1. **Creation of Indebtedness—Submission to Taxpayers.** Whenever the council of any city or town having a corporate existence in this State, or hereafter organized under any of the laws thereof, shall deem it necessary to issue bonds for any purpose whatever, under its powers as set forth in any statute or statutes of the State of Montana, or amendments thereto, the question of issuing such bonds shall first be submitted to the qualified electors of such city or town in the manner hereinafter set forth; provided, however, that it shall not be necessary to submit to such electors the question of issuing funding or refunding bonds to fund or refund warrants or bonds issued prior to and outstanding on the 1st day of April, 1937. In order to issue bonds to fund or refund warrants or bonds issued prior to and outstanding on April 1st, 1937, it shall only be necessary for the council, at a regular or duly called special meeting, to pass and adopt a resolution setting forth the facts in regard to the indebtedness to be funded or refunded, showing the reason for issuing such bonds and fixing and determining the details thereof, giving notice of the sale thereof in the same manner that notice is required to be given of the sale of bonds authorized at an election, and then following the procedure prescribed in this act for the sale and issuance of such bonds."

Issuance of bonds by city or town to be first submitted to qualified electors.

Funding bonds excepted.

Procedure for funding bonds.

Amending clause.

Section 2. That Section 5278.6 of the Revised Codes of Montana, 1935, be and the same is hereby amended to read as follows:

Bonds to be authorized at election.

"Section 5278.6. **Petition for Election—Form—Proof.** No bonds shall be issued by a city or town for any purpose, except to fund or refund warrants or bonds issued prior to and outstanding on April 1, 1937, as authorized in Section 5278.1, unless authorized at a duly called special or general election at which the question of issuing such bonds was submitted to the qualified electors of the city or town, and approved, as hereinafter provided, and no such election shall be called unless there has been presented to the city or town council a petition, asking that such election be held and question submitted, signed by not less than twenty per centum (20%) of the

Petition for election.

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qualified electors of the city or town, who are taxpayers upon property within such city or town and whose names appear on the last completed assessment roll for state and county taxes, as taxpayers within such city or town. Every petition for the calling of an election to vote upon the question of issuing bonds shall plainly and clearly state the purpose or purposes for which it is proposed to issue such bonds, and shall contain an estimate of the amount necessary to be issued for such purpose or purposes. There may be a separate petition for each purpose, or two (2) or more purposes may be combined in one (1) petition, if each purpose with an estimate of the amount of bonds to be issued therefor is separately stated in such petition. Such petition may consist of one (1) sheet, or of several sheets identical in form and fastened together, after being circulated and signed, so as to form a single complete petition before being delivered to the city or town clerk, as hereinafter provided. The petition shall give the street and house number, if any, and the voting precinct of each person signing the same.

Purpose of bonds must be stated.

Separate petition for each purpose.

Form and contents of petition.

Only persons who are qualified to sign such petitions shall be qualified to circulate the same, and there shall be attached to the completed petition the affidavit of some person who circulated, or assisted in circulating, such petition, that he believes the signatures thereon are genuine and that the signers knew the contents thereof before signing the same. The completed petition shall be filed with the city or town clerk who shall, within fifteen (15) days thereafter, carefully examine the same and the county records showing the qualifications of the petitioners, and attach thereto a certificate, under his official signature, which shall set forth:

Circulators of petitions.

Affidavit.

Certificate by city clerk.

(1) The total number of persons who are registered electors and whose names appear upon the last completed assessment roll for state and county taxes, as taxpayers within such city or town.

Number of registered electors.

(2) Which, and how many of the persons whose names are subscribed to such petition, are possessed of all of the qualifications required of signers to such petition.

Number qualified signers.

(3) Whether such qualified signers constitute more or less than twenty per centum (20%) of the registered electors whose names appear upon the last completed

Whether 20% of qualified electors.

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assessment roll for state and county taxes, as taxpayers within such city or town."

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 15, 1937.

CHAPTER 109

An Act to Amend Sections 2429.17 and 2429.21 of the Revised Codes of Montana of 1935, Relating to Itinerant Vendors' License and Fixing the Amount of Such License and Providing a Penalty for Failure to Exhibit Same.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 2429.17 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Amount of license.

"Section 2429.17. **Amount of License.** For the purpose of defraying the expenses of regulation under this act, every itinerant vendor desiring to do business in any county of this State must, before commencing such business, pay to the county treasurer of such county the sum of fifteen ($15.00) dollars for a license to conduct such business for a period of one (1) year from the date such license is issued."

Amending clause.

Section 2. That Section 2429.21 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Penalty for failure to exhibit license.

"Section 2429.21. **Penalty for Failure to Exhibit License.** Every such itinerant vendor doing business under the provisions of this act must upon demand of any person exhibit his license and permit the same to then and there be read by the person making such demand; and any such itinerant vendor who shall wilfully refuse or fail to exhibit his license as above provided is guilty of a misdemeanor and shall be fined not less than one hundred ($100.00) dollars nor more than two hundred fifty ($250.00) dollars for each offense."

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Section 3. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 4. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved March 15, 1937.

CHAPTER 110

An Act Legalizing and Validating Elections Heretofore Held in Any County to Authorize the Issuance of Bonds for a High School Building and Dormitory Under Chapter 117, Revised Codes of Montana, 1935, and All Proceedings Relating to the Issuance of Such Bonds.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That any election heretofore held for the purpose of authorizing the board of county commissioners of any county of the State of Montana to issue bonds of the county for the purchase or erection of a high school building or buildings and for the purchase or erection of a high school dormitory or dormitories under the provisions of Chapter 117 Revised Codes of Montana, 1935, which election was held after notice stating the time and places of holding the election, the amount and character of the bonds proposed to be issued, and the purposes thereof was duly published and posted for the time and in the manner required by Section 4630.10, Revised Codes of Montana, 1935, and at which election the proposal to issue such bonds received a majority of all votes tendered and votes cast at such election upon such proposition, and the issuance of which any such board has assumed to authorize are hereby ratified and confirmed, and declared to be valid and subsisting obligations of full force and effect and to all intents and purposes, and all such bonds, whether issued or hereafter to be issued, are legalized and declared to be valid and legal and subsisting obligations of and against the county issuing the same, regardless of any error, defect, omission, irregularity, or departure from statute in the holding or conduct of such election or registration therefor, in the proceedings of the board of trustees of the county high school, Validation of bonds of counties issued for high school or dormitory.

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in the form of the proposition submitted to the electors, or in any of the steps or proceedings relating to the issuance of such bonds, provided the issuance of such bonds was first submitted to the voters of said county and a majority of all the votes cast by such voters was in favor of such bond issue as declared by the minutes of the board of county commissioners or as otherwise made to appear with certainty, does not cause the indebtedness of the county to exceed any constitutional or statutory limitation of indebtedness.

Proviso, as to county debt limitation.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 15, 1937.

CHAPTER 111

An Act to Amend Section 700 of the Revised Codes of Montana, 1935, Relating to Conducting Elections; Who May Put Ballots Into Ballot Box; Providing Penalty for Violation of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 700 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Who may put ballots into ballot box.

Penalties.

Duty of person offering to vote.

"Section 700. No person whomsoever, except a judge or judges of election, shall put into the ballot box any ballot, or any paper resembling a ballot, or any other thing whatsoever. Any person or persons violating the foregoing provision shall be guilty of a misdemeanor. Any judge or judges of election who shall knowingly permit a violation of any of the provisions in this section set forth shall be guilty of a felony and be punishable as in this section hereinbefore specified. The person offering to vote must hand his ballot to the judge, and announce his name, and in incorporated cities and towns any such person must also give the name of the street, avenue, or location of his residence, and the number thereof, if it be numbered, or such clear and definite

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description of the place of such residence as shall definitely fix the same."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 15, 1937.

CHAPTER 112

An Act to Amend Section 782 of the Revised Codes of Montana, 1935, Relating to the Election Returns; Providing the Manner in Which Election Returns Shall Be Made by the Judges; Providing for the Selection of One Judge to Deliver Duplicate Election Returns to the Clerk of the District Court, and to Repeal Section 783 of the Revised Codes of Montana, 1935, Also Relating to Election Returns.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 782 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Procedure for election returns by judges.

"Section 782. **Election Returns by Judges—How Made.** The judges must, before they adjourn, inclose in a strong envelope, securely sealed up and directed to the county clerk, the check-lists, all certificates of registration received by them, one of the lists of the persons challenged, one of the poll-books, one of the tally-sheets, and the official oaths taken by the judges and clerks of election; and must inclose in a separate package or envelope, securely sealed up and directed to the county clerk, all detached stubs from ballots voted and all unused ballots with the numbered stubs attached; and must also inclose in a separate package or envelope, securely sealed up and directed to the county clerk, all ballots voted, including all voted ballots which, for any reason, were not counted or allowed, and indorse on the outside thereof "Ballots Voted". Each of the judges must write his name across the seal of each of said envelopes or packages. The judges must select one of their number,

Signing envelopes.

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Delivery of list and papers to clerk of district court.

Ballot box.

who must forthwith deliver over to the clerk of the district court the other list of persons challenged, the other tally-sheet, and the other poll-book, and all of these must be open to the inspection of all electors for six (6) months thereafter. The ballot box must be returned to the county clerk."

Repealing clause.

Section 2. That Section 783 of the Revised Codes of Montana, 1935, be, and the same is hereby repealed.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 15, 1937.

CHAPTER 113

An Act to Amend Section 2433.6 of the Revised Codes of Montana of 1935, Relating to Investigation of Applicant and Granting of License—Renewals—Fees, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 2433.6 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Investigation of application.

"Section 2433.6. **Investigation of Applicant and Granting of License—Renewals—Fees.** It shall be the duty of the registrar to investigate and determine the applicant's fitness to act in the capacity of public contractor, as defined in this act, and no license shall be issued unto such applicant until the expiration of ten (10) days from and after the filing of such application. The license so issued in pursuance of the first application shall entitle the licensee to act as a public contractor within this State, subject to the limitations of such license, until the expiration of the then current calendar year.

Ten days to elapse after filing.

Duration of license.

Renewal.

Any license issued under the provisions of this act may be renewed for each successive calendar year by obtaining from the registrar a certificate of renewal

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thereof. For the purpose of obtaining such certificate of renewals, the licensee shall file with the registrar an application therefor, stating the class of license applied for and containing the same information as that required in the application for the original license. The application for such certificate of renewal must be made to the registrar on or before the first day of March of each successive calendar year; and such renewal certificate shall be good for the then current calendar year.

Application for renewal.

At the time of filing the application for a certificate of renewal, the applicant shall pay unto the registrar a license fee equal to fifty (50) per cent of the license fee for the original license; provided that if any applicant for a certificate of renewal shall apply for a renewal under a different class from the license theretofore issued to him, such new license shall only be issued upon the same showing and under the same terms and conditions and upon payment of the same fee required for the issuance of an original license.

Fee to accompany renewal application.

Proviso, as to different class of license.

All certificates of renewal, wherein the applicant does not apply for a change in the class of license shall be issued by the registrar to the applicant forthwith when the application is filed and the license renewal fee paid."

Certificates issuable forthwith.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved March 15, 1937.

CHAPTER 114

An Act to Exempt From Taxation Lands Owned by the State Water Conservation Board or the State of Montana for Use in Water Conservation Projects and to Provide for the Cancellation of Taxes Remaining Unpaid Against Said Lands When Same Are Acquired by the State Water Conservation Board or the State of Montana for Such Purposes.

Be it enacted by the Legislative Assembly of the State of Montana:

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Lands of state water conservation board exempted from taxation.

Section 1. All lands acquired and held by the state water conservation board or the State of Montana for use in connection with water conservation projects, constructed or to be constructed under the laws of this State, shall be exempt from taxation and it shall be the duty of the county treasurer to cancel all taxes remaining unpaid against said land for the year in which same is so acquired and for all previous years, provided, that such taxes shall be cancelled only in such cases as no tax certificates shall have issued or a tax certificate has issued to the county and no assignment of such certificate of sale has been made by said county prior to the time when said land was acquired by said state water conservation board.

Cancellation of unpaid taxes.

Exception as to cases where certificate of tax sale has been assigned.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 15, 1937.

CHAPTER 115

An Act to Provide Emergency Relief by Employment by Authorizing Counties, Cities, Towns, Rural Improvement Districts, School Districts and Any Other Political Subdivisions, or Any Other Governmental Agencies of the State to Make Loans, Convey Lands, Accept Grants From the President of the United States and From the State of Montana, to Borrow Money and to Enter Into Contracts and Arrangements for the Construction of Public Works.

Be it enacted by the Legislative Assembly of the State of Montana:

Declaration of emergency.

Section 1. The economic depression prevailing throughout the United States and foreign countries has caused widespread unemployment, poverty, dependency and distress among people in the State of Montana, and to such extent that the public peace, order and tranquility are seriously endangered, and the orderly processes of government may be imperiled. Local, state and federal means for relief so far made available are hopelessly in-

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adequate. The entire situation constitutes a grave emergency in the history of our State. This emergency is hereby recognized and declared to exist.

Declaration of public policy.

In accordance with the fundamental principles and purposes of the government of this nation and of this State, we hereby declare it to be the policy of this legislative assembly to meet the existing emergency by providing public work for unemployed and distressed people throughout the State and thereby "insure domestic tranquillity and promote the general welfare".

Counties and other units authorized to undertake public works program.

Section 2. To effectuate the purposes of this act, counties, cities, towns, rural improvement districts, school districts, irrigation districts, drainage districts, sewerage districts, federal reclamation projects and water users' boards of control thereof, and other political subdivisions and governmental agencies of this State, are hereby authorized until December 31, 1939, to undertake a program of public works which may include, among other things the following: (1) The construction, repair and improvement of public highways, school houses, county and district high schools, public parks and parkways, public buildings and any other publicly owned instrumentalities and facilities; (2) the control, utilization and purification of water and extension and improvement of existing municipal water works; (3) or procuring a supply of water for a municipality which shall own and control such water supply and devote the revenues derived therefrom to the payment of the debt; (4) the construction, reconstruction, alteration or repair, under public regulation or control, of low cost housing and slum clearance projects; (5) the construction of any other projects of any character eligible for loans under the provisions of the acts of congress known as the emergency relief and construction act of 1932, and the national industrial recovery act.

Time limit.

Projects authorized.

Public buildings, etc.

Water.

Water supply.

Housing.

Other projects.

Powers of governing boards.

To construct projects.

Section 3. With a view of increasing employment quickly the boards of county commissioners, city and town councils, boards of trustees of school districts of governmental subdivisions, and agencies mentioned in this act are authorized and empowered; (1) to construct, finance, or aid in the construction or financing of any public works project included in the program undertaken pursuant to Section 2, of this act; (2) upon such terms as the president of the United States shall prescribe and

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pursuant to the national industrial recovery act or other legislation of the United States and any laws of this State, to make loans, convey real property and accept grants for the construction, repair or improvement of any such projects; (3) to sell any real or personal property to the federal government in connection with the construction of any such project and to buy therefrom any property so constructed or to lease for any period not to exceed forty (40) years any such project therefrom, with or without the privilege of purchase, and any such contract or lease shall not be deemed the incurring of any indebtedness within the terms of the constitution of this State; (4) to accept grants for any such projects; (5) to make and enter into any contracts with the federal government or any governmental agency aforementioned and to borrow money, issue bonds, debentures or certificates of indebtedness with respect thereto; (6) or to contract for the construction of any project to be paid for solely from the earnings of said project and without liability on the part of the governmental subdivision or agency contracting for the construction of same; and to levy taxes, divert funds or to amortize the indebtedness; notwithstanding any statutory restrictions or limitations on the right or power of such county, municipal corporation or other agency described herein.

To make loans, accept grants, etc.

To sell property to United States.

To buy or lease property from United States.

To accept grants.

To make contracts.

To borrow money, etc.

To contract for project to be paid for from earnings.

To levy taxes.

No loans to be made after end of emergency.

Section 4. Whenever in the opinion of the governor the emergency herein declared to exist shall have been ended, no further loans may be made under the provisions of this act.

No liability hereunder shall be payable by taxation without an election.

Section 5. (a) No lease or contract shall be entered into and no debt or liability shall be incurred or created under the provisions of this act on the part of any county, city, town, school district, public or municipal corporation, political subdivision or governmental agency, for the payment of any part of which taxes will be levied against the taxable property therein, without the approval of a majority of the qualified electors thereof whose names appear upon the last preceding assessment roll, voting at an election called for such purpose.

Resolution by governing board.

(b) The council, commission, board of directors, board of trustees or governing board of any county, city, town, school district, public or municipal corporation, or other political subdivision or governmental agency of this State, desiring to make a loan and to issue its bonds for

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any purpose or purposes set forth in this act, shall at any regular meeting thereof or at any special meeting called for such purpose, adopt a resolution which shall set forth the following:

Contents of.

(1) The full amount required to be expended for any such purpose or purposes;

Amount required.

(2) The amount of the loan to be made therefor;

Amount of loan.

(3) The term over which bonds evidencing such indebtedness will extend. And said resolution shall call an election at which the question of making such loan and issuing such bonds shall be submitted to the qualified registered electors of the county, city, town, school district, public or municipal corporation, or political subdivision which is to make such loan and issue such bonds, who are taxpayers and whose names appear upon the last completed assessment roll, and fix a date for holding such election, which shall not be less than twenty (20) nor more than twenty-five (25) days from the date of the adoption of such resolution; provided such resolution may be adopted and said election called without any petition having been presented or filed asking that the same be held. Said resolution shall be entered in full in the minutes of the board or commission, and shall show the vote by ayes and nays thereon.

Term of bonds.

Election.

Proviso, that petition for election not required.

A copy of such resolution certified by the clerk of the board or commission shall be immediately delivered to the county clerk and said county clerk shall thereupon close the registration books for said election at twelve (12:00) o'clock noon of the fifteenth (15) day prior to the date fixed in such resolution for holding such election, and it shall not be necessary for the county clerk to post or publish any notice of the closing of the registration books. After the closing of the registration books for such election, the county clerk shall promptly prepare lists of the registered electors who are taxpayers and whose names appear on the last completed assessment roll for state, county and school taxes and who are entitled to vote at such election, and shall prepare poll books for such election as provided in Section 568, Revised Codes of Montana of 1935, as amended, and deliver the same to the judges of election prior to the opening of the polls for such election; provided that it shall not be necessary for the county clerk to have the aforesaid lists of registered electors either printed or posted.

Close of registration books.

County clerk to prepare lists of eligible electors.

Poll books.

Lists need not be printed or posted.

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Posting of copies of resolution.

(c) The clerk of the board calling such election shall, at least twenty (20) days prior to the date when such election is to be held, post, or cause to be posted copies of said resolution in not less than three (3) public places in each voting precinct, and the posting of such copies shall take the place of, and be in lieu of, the publication of notice of election and posting notices of election required by the general election laws.

Ballots.

Ballots for said election shall be prepared by the clerk of the board calling such election and delivered by such clerk to the judges of election, and said election shall be held and conducted, votes counted and returns made and canvassed in the manner required by the general election laws, and all provisions of such general election laws shall apply thereto, as far as the same are applicable and not in conflict with any of the provisions of this act.

Conduct of election.

Sale of bonds.

No bonds or other evidences of indebtedness shall be sold for less than their par value with accrued interest to date of sale, and when sold to agencies of the United States may be sold without publication of notice of sale.

Validation of proceedings which have been commenced.

Section 6. Where proceedings have been commenced prior to the enactment of this chapter which would have been authorized under this law for the purposes described herein, such proceeding shall be held valid and sufficient, and shall authorize the completion of such proceedings under this law; and said proceedings, when so completed, shall be of the same force and effect as if this law had been in effect when said proceedings were so commenced.

Laws of state as to bond proceedings.

Section 7. All of the laws of this State governing the issuance and sale of bonds by counties, cities, towns, school districts, and other subdivisions of the State authorized to issue bonds under this act, the levying of taxes for the payment of principal and interest thereof and payment and redemption thereof, insofar as the same are applicable and not in conflict with any of the provisions of this act, shall apply to and govern all bonds issued under the provisions of this act.

Validity of act.

Section 8. If any part or parts of this act shall be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this act. The legislature hereby declares that it would have passed the remaining parts of this act if it had known

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that such part or parts thereof would be declared unconstitutional.

Public necessity for act.

Section 9. The legislative assembly hereby finds, determines and declares this act to be necessary for the immediate preservation of the public peace, health and safety.

Effective date of act.

Purpose of act.

Section 10. An emergency exists and this act shall take effect and have force from and after its passage; but this act shall expire and stand repealed on December 31, 1939. This act shall not repeal any statute now in force nor prevent the exercise of powers as elsewhere in the statutes of this State provided. It shall constitute an additional method of carrying out the powers herein authorized.

Approved March 15, 1937.

CHAPTER 116

An Act Providing That Any Elective or Appointive Officer of or for the State of Montana, or Any District or County Thereof Who Becomes a Candidate for Any Elective Office Except as a Bona Fide Candidate for Reelection to Any Office Then Occupied by Such Person, Shall at or Before Filing for Said Elective Office as Required by Law, Resign the Office, Appointment or Position Then Held; and Providing That the Office, Appointment, Position of Any Person Failing so to Resign Shall Become Vacant, and Giving Directions With Reference to the Filling of Such Vacancies, and Providing Exceptions Hereto, and Providing a Severance Clause, and for the Repeal of Any and All Acts, Statutes or Code Provisions Inconsistent Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Requiring resignation of state, county and other officers who become candidates for another office.

Section 1. Whenever any person holding, occupying or discharging, de jure or de facto, the duties of any elective or appointive office of, or for, or under, or by virtue of the laws of the State of Montana, including the office of United States senator for Montana and the office of representative in congress for any congressional district of Montana or of any county office or

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position, the term of which is longer than two (2) years, shall become a candidate for election to any elective office under the laws of/or in Montana aforesaid, such person shall forthwith, and in any event at or before the time required for such person to file as a candidate for such office at any primary or special or general election, except where such person is a bona fide candidate for reelection to the identical office then held or occupied by him, resign said office, appointment, place, position, and said resignation shall become effective forthwith on delivery of the same to the proper officer or superior, as the case may be, and in the event of failure so to resign said office, appointment, place, position, as the case may be, the same shall, ipso facto, become wholly vacant and unoccupied, and said former holder or occupant shall have no further right, power or authority therein for any purposes, and no right to any emoluments thereof, notwithstanding the fact that a successor is not appointed or elected; and said vacancy shall become operative to deprive any person of the emoluments of any office, position, employment or place then held in order to carry out the policy of this act.

Such office to become vacant.

Such person deprived of emoluments.

Vacancies to be filled.

Section 2. In all cases the proper appointing or other power shall promptly fill all vacancies occurring because of the provisions of this act, by appointment of qualified persons where permitted by law, preference being given to qualified deputies or assistants then actually serving in their respective places, if otherwise competent, and by calling any elections requisite to fill such vacancies in cases where elections are now required by law.

Applicability of act; exceptions.

Section 3. This act shall not apply to any office, position or place, appointive or elective, the incumbent of which is prohibited by law (a) from succeeding himself in said office, position or place, or (b) the incumbent of which is prohibited by law from enjoying more than two (2) successive terms in said office, position or place, or (c) to any office, position or place for which there is no salary, per diem, fees or emoluments prescribed or accruing by law, or (d) to the office of state representative, or to the office of state senator, unless the candidacy of the incumbent for a different office may result in a vacancy in the office of state senator in which case the provisions of this act shall apply, or (e) to the incumbent of any office whose term of office expires within (70) seventy days after the ensuing general election.

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Construction of act.

Section 4. This act shall be construed as a condition subsequent to the tenure or holding of any office, appointment, position or place under the State of Montana, as aforesaid; and it shall not be construed as imposing or providing any additional qualifications for office in any case where such qualifications are now prescribed by the constitution of the United States or the constitution of Montana to the exclusion of the prescription of additional qualifications by the legislative assembly.

Constitutionality of act.

Section 5. If any word, clause, sentence, paragraph or sections of this act is, or any one or more thereof in combination are, found unconstitutional, or if the provisions hereof are not applicable to any of the offices, appointments, positions, or places named herein, for any reason, such finding shall not affect or alter the remainder of this act or any part thereof and the same shall stand as valid, the legislative assembly hereby declaring that it would have passed the remainder or residue not found unconstitutional or inapplicable in any event in its effort to insure the adoption of the principle hereof.

Repealing clause.

Section 6. All acts and parts of acts, statutes and/or code provisions inconsistent herewith are, and each thereof is, hereby expressly repealed.

Effective date.

Section 7. This act shall be in full force and effect, when approved, from and after July 1, 1937.

Approved March 15, 1937.

CHAPTER 117

An Act to Amend Section 12288 of the Revised Codes of Montana of 1935 Relating to the Appointment, Salary and Duties of Probation Officers, to Juvenile Delinquents and to Court Procedure.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 12288 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Appointment of chief probation officer.

"12288. **Probation Officers—Appointment, Salary, and Duties—Procedure on Criminal Complaints Against Minors—Commitment.** In every judicial district of the

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State of Montana the judge thereof having jurisdiction of juvenile matters may appoint one discreet person of good moral character, who shall be known as the chief probation officer of such district and who shall hold his office during the pleasure of the court. Such officer shall receive for his services such sum as shall be specified by the court upon appointment, not exceeding the sum of one thousand eight hundred dollars per annum, to be paid, however, upon a per diem basis for the time actually and necessarily employed in performing the duties of the office. Provided, however, that in counties having a population in excess of 40,000 the district judge having jurisdiction of juvenile matters therein may appoint one chief probation officer for such county, who shall receive for his or her services such sum as shall be specified by the court upon appointment, not exceeding the sum of two hundred dollars per month. The salary of such officer shall be apportioned among and paid by each of said counties in which said officer is appointed to act in proportion to the assessed valuation of such counties for the year then current to be paid out of the contingent fund of the county; except that where such official is appointed for one county his salary shall be paid by that county. In the absence of the appointment of such chief probation officer, it shall be the duty of the sheriff of the respective county or counties comprising such judicial district to perform all the duties of the chief probation officer in this chapter enumerated without additional compensation. Said probation officer shall also be reimbursed for the actual and reasonable traveling and other expenses incurred by him in pursuance of his official duties. Such reimbursement shall be made once each month by the county or several counties for which such probation officer shall have been appointed. Each probation officer shall, not later than the tenth day of every calendar month, and before the allowance and payment thereof, file or cause to be filed with the proper board of county commissioners of the county chargeable therewith, an itemized sworn statement and account of such expenses, including his claim for salary for the preceding month with the approval of the district judge or judges endorsed thereon. Each county of this State shall reimburse such probation officer only in respect to such expenses as have been incurred in connection with juvenile persons residing in that county.

Compensation.

In counties having a population over 40,000.

Apportionment of salary.

When sheriff to perform duties of chief probation officer.

Expenses.

Share to be paid by county.

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Deputy probation officer.

The district judge having jurisdiction of juvenile matters may also appoint, in counties having a population of more than 40,000, one additional person to serve as deputy probation officer who shall receive not to exceed one hundred fifty dollars ($150.00) per month and reimbursement for the actual and reasonable traveling and other expenses incurred by him in the pursuance of his official duties and to serve at the will of the court and be paid by the county for which he is appointed out of the same fund herebefore set forth. The judge having jurisdiction may appoint as probation officers such other discreet persons of good moral character as are willing to serve without compensation. It shall be the duty of the clerk of the district court, immediately upon the appointment of a probation officer, to notify the courts and magistrates of any county in which the said officer is appointed, giving them the names and postoffice addresses of such officers. The duties of said probation officer or officers shall be such as hereinafter prescribed.

Salary.

Judge may appoint others to serve without compensation.

Duties of probation officers.

Whenever a complaint is made or pending against a boy or girl under eighteen years of age for the commission of any offense not punishable by law with life imprisonment, or for which the penalty is death, before any court or magistrate, it shall be the duty of such court or magistrate at once and before any other proceedings are had in the cause, to give notice in writing of the pendency of said cause to the probation office of his county. Such probation officer shall immediately, or as soon thereafter as possible, proceed to inquire into and make a full examination and investigation of the facts and circumstances surrounding the commission of the alleged offense, the parentage and surroundings of said child, its exact age, habits, and school record, and everything that will throw light on its life and character, and may also inquire into the home conditions, habits, and character of the parents or guardians, and shall make a full report thereon in writing to the judge of the district court having charge of such cases, before said cause is tried. If, upon consultation with the probation officer and the examination of such report, it shall appear to the judge of said court that the child is not guilty of the offense charged against it, or that the interest of the child shall be best subserved thereby, the court shall order that such child be not brought into court, and said cause shall be dismissed. Said chief pro-

To investigate alleged offenses by juvenile defendants.

Report to judge of district court.

Judge may order dismissal of cause.

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Other powers and duties of probation officer.

bation officer shall attend all hearings under this act and represent the interests of the child and shall take charge of any child before or after trial, as the judge may direct. Probation officers shall serve warrants and other process of the court, issued because of violation of this act or issued for the enforcement of this provision of this act, within or without the county, and in that respect they are hereby clothed with the powers and authority of sheriffs; they can make arrests without warrant upon view of the violation of any of the provisions of this act, and detain the person so arrested pending the issuance of a warrant; and perform such other duties incident to their offices as the judge may direct; and all sheriffs, deputy sheriffs, constables, marshals, and police officers are required to render assistance to probation officers in the performance of their duties when requested to do so.

Power of court as to juvenile found guilty.

If upon the trial of any child the court shall find that such child is guilty of the offense charged, he may withhold judgment for a definite or indefinite period if it appear that the public and the interest of the child will be best subserved thereby, and may order that such child be returned to the care of his or her parents, guardian, or friends; or he may commit such child to the care of

May commit to a volunteer probation officer.

a volunteer probation officer, who shall exercise supervision over it until such time as it is discharged by the court from supervision upon the recommendation of such voluntary probation officer, and if the parents, parent, guardian, or custodian consent thereto, or if the court shall further find either that the parent, parents, guardian, or custodian are unfit or improper guardian, or are unable or unwilling to care for, protect, educate, or discipline such child, and shall further find that it is for the best interest of such child and for the people of this state that such child be taken from the custody of its parents, custodians, or guardian, the court may

May place child in a suitable family.

order such child to be placed in the family of some suitable person where such family home shall be recommended by the probation officer of the court after consultation with those representing the interest of the child, there to remain until he or she shall have attained the age of twenty-one years or for any less time, or the court may order such child to be placed in the home

Or, in county home for children.

where the county's dependent children are kept; or, if it appears to be for the best interest of the child and

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such child appears to be in need of institutional training, the court may order him or her to be committed to some state institution or some institution of learning managed by a corporation or individual, and devoted to the care of such children, for a definite or indefinite period; such institution to be situated in the State of Montana, and to be inspected at least once a year and approved by the bureau of child and animal protection and to receive for its services a per diem of thirty-five cents for each day that such child shall be in the custody, such per diem to be paid by the county sending the child, upon itemized vouchers duly certified to by the court; or the court may impose a fine with costs, or the court may for good cause shown suspend judgment in any case for a definite or indefinite period; or, if the offense be a malicious trespass, the court may require the damage to be made good, or if the offense be petty larceny and the stolen property is not recovered, the court may require it to be paid by the delinquent child himself if it be shown that he or she is capable of earning the money or has any money of his or her own, or its parents or guardian, at the discretion of the court; and in all the foregoing cases, where the parents or guardian are unfit to have the custody of said child, or unable to control said child, the court may deem the child to be the ward of the court, as far as its person is concerned; and in all cases where any child has been decreed to be the ward of the court, the authority of the court over its person shall continue until the court shall otherwise decree, and the court may adopt all rules and regulations that may be needed to carry out the provisions of this act. In every case in which the court shall commit any child to the care and custody of any other institution as above provided, other than a state institution, and such child shall have a parent or guardian within the county, the court may make and enter an order requiring such parent or guardian to appear before said court upon a day and hour to be named by the court therein, and show cause, if any she or he have, why she or he should not pay for the support of such child, in whole or in part, while it is an inmate of such institution. A certified copy of said order shall be served upon such parent or guardian by the chief probation officer of the county not less than ten days prior to the day fixed therein for such appearance. Upon due service and return of said order, the court shall, upon

Or, in institution of learning.

County to pay per diem cost to institution.

Court may suspend judgment.

Or, require recompense where offense involves property.

May deem child a ward of the court.

May adopt rules.

Citation of parent or guardian in relation to support of child.

Hearing.

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the day fixed, or upon such subsequent day as may be fixed by the court, hear evidence as to the financial ability of such parent or guardian, and in case the court shall find that such parent or guardian should pay for or contribute to the support and maintenance of such child, the court shall render judgment against such parent or guardian that that parent or guardian shall pay to the chief probation officer such sums as the court shall adjudge and at such times and in such amounts as shall be by the court found just. And such judgment shall be enforced as other judgments are enforced, and all moneys collected on such judgments shall be held by the chief probation officer and shall be remitted quarterly by him to the institution keeping such child or children and the amount so remitted shall be deducted from the quarterly bill of such institution.

Judgment.

Quarterly report by probation officer.

Provided, that the chief probation officer shall make a verified report to the court at the close of each quarter, of the amount of money so collected on such judgments, which report the judge shall cause to be filed with the county commissioners with the bill rendered by the institution keeping such child. If any child is wayward and unmanageable the court may commit him or her to the industrial school, or to any other state penal or reformatory institution authorized by law to receive such boy or girl subject to such conditions as are already provided by law for the reception of such children in said schools or institutions. And in cases where a child shall be committed to a state or other institutions as above provided, the report of the probation officer shall be attached to the commitment and the child shall be placed in charge of the probation officer, or some person designated by the court to be conveyed under his direction to the designated institution; provided, that a woman shall always be sent with the girls so committed, and the person taking such child to the designated institution shall be allowed and paid his or her actual expenses and no more, where he or she is a paid officer of such court, appointed by the court, and in all other cases the person taking such child to any institution shall be allowed and paid for his or her services, the same fees and expenses as are paid to sheriffs in like cases.

Commitment of child to industrial school or other state institution.

Conveyance to designated institution.

Placing child in hospital.

And provided, that the court may when the health or condition of the child require it, cause the child to be placed in a public hospital or institution for treatment

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for special care, or in a private hospital or institution which will receive it for like purposes without charge or for the per diem of thirty-five cents a day.

Child not to be confined with adult convicts.

Provided, that when a child contemplated by this act shall be sentenced to confinement in any institution to which adult convicts are sentenced, it shall be unlawful to confine such child in any room, yard or enclosure with such adult convicts, or to allow them in any manner to come in contact with them, or in any way commingle with such adult convicts, or to bring such child into any yard or room in which adult convicts may be present.

Proviso, as to child unable to give bond.

Provided, that if any such boy or girl against whom a petition is filed is unable to give bond, and the court does not release him or her on his or her own recognizance, then such boy or girl shall be entitled to an immediate hearing and trial, according to law.

Commitment subject to rules of institution.

Providing that the commitment of any child to an institution or association or society shall be subject to the rules and laws that may be in force from time to time governing such institution, association, or society.

Child may be returned to home of parents.

Provided, that when it shall be made to appear to the court that the home of the child or its parents, former guardian or custodian, is a suitable place for such child, and that such child be permitted to remain or ordered to be returned to said home, consistent with the public good and the good of such child, the court may enter an order to that effect, returning such child to his home under probation, parole, or otherwise; it being the intention of this act that no child should be taken away or kept out of his home or away from his parents or guardian any longer than is reasonably necessary to preserve the welfare of the child and the interest of all this State; provided, however, that no such order shall be entered without giving ten days' notice to the person, institution, or association to whose care such child has been committed, unless such guardian, institution, or association to whose care such child has been committed consents to such order.

Policy as to taking child from home.

Notice required.

Court may require interim reports by custodian.

And provided, the court may from time to time cite into court the person, institution, association, or society to whose care any delinquent child has been awarded, and require him or it to make a full, true, and perfect report as to his or its doings in behalf of such child;

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and it shall be the duty of such person, institution, or association, within ten days after such citation, to make such report, either in writing, verified by affidavit, or verbally, under oath, in open court or otherwise, as the court shall direct; and upon the hearing of such report, with or without further evidence, the court may, if it sees fit, take such child from said person, institution, association, or society, and place it with another, or restore such child to the custody of its parents or former guardian or custodian."

Hearing.

May place child elsewhere.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 15, 1937.

CHAPTER 118

An Act Relating to Contracts for Public Printing, Fixing the Prices Therefor, and Providing for a Penalty for Violation of the Provisions of This Act; and Repealing Section 4482 Revised Codes of Montana 1935.

Be it enacted by the Legislative Assembly of the State of Montana:

County commissioners to contract for printing.

Section 1. It is hereby made the duty of the county commissioners of the several counties of the State of Montana to contract with some newspaper, printed and published at least once a week, and of general bona fide and paid circulation with second class mailing privilege, printed and published within the county, and having been printed and published continuously in such county at least twelve months immediately preceding the awarding of such contract, to do and perform all the printing for which said counties may be chargeable, including all legal advertising required by law to be made, blanks, blank books, election supplies, loose leaf forms, official publications, and all other printed forms required for the use of such counties at not more than the prices specified in Sections 2 to 17 inclusive of this act.

Price limit.

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Section 2. **Official Publications and Legal Advertising.**

Maximum rates.

For every folio or fraction thereof, not more than one dollar and fifty cents shall be paid for the first insertion thereof, and not more than fifty cents per folio for each subsequent insertion thereof, required by law to be made. For rule and figure work, not more than two dollars per folio or fraction thereof, for the first insertion, and not more than fifty cents per folio for each subsequent insertion thereof, required by law to be made.

Basis of folio measurement.

That for the purpose of establishing a basis of folio measurement, one standard newspaper column, when set in the following mentioned type size, shall constitute a folio: 12 lines of solid six point, or approximately one hundred words; fourteen lines of solid seven point, or approximately one hundred words; fifteen lines of solid eight point, or approximately one hundred words; seventeen lines of solid nine point, or approximately one hundred words; seventeen lines of solid ten point, or approximately one hundred words.

Sizes of type.

For the purpose of determining the different sizes of type hereinbefore mentioned, the following point system measurements as universally used by the graphic arts industries shall prevail: Computing seventy-two points to a linear column inch, there shall be twelve lines of solid six point; 10.285 lines of solid seven point; nine lines of solid eight point; eight lines of solid nine point; 7.2 lines of solid ten point to each column inch.

Rule and figure work.

For rule and figure work the basis for determination of this style shall be not less than two justifications.

Section 3. **Envelopes.**

Envelopes.

	500	1000	Addl. 1000
6¾ Bond	$3.50	$5.75	$4.50
10 Bond	4.25	7.25	5.50
6¾ White Wove, 24 Sub.	3.00	5.00	4.00
10 White Wove, 28 Sub.	3.75	6.50	5.50
6¾ Manila, 20 Sub.	2.50	4.00	3.00
10 Manila, 28 Sub.	3.00	5.00	4.00
12 Manila, 28 Sub.	4.00	6.25	5.75

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Section 4. **Letterheads.**

Letterheads.

	250	500	1000	Addl. 1000
Size 7x8½ on 16 or 20 pound substance, white or colored paper.				
Grade 17	$4.00	$5.25	$7.00	$3.00
Grade 27	4.25	5.75	8.00	3.75
Size 8½x11 on 16 or 20 pound substance, white or colored paper.				
Grade 17	4.50	5.75	8.00	3.75
Grade 27	5.00	6.50	9.50	5.00

Section 5. **Legal Blanks.**

Legal blanks.

	250	500	1000	Addl. 1000
⅛ Sheet, 3½x8½, printed one side	$ 3.75	$ 4.25	$ 6.50	$ 5.00
⅛ Sheet, 3½x8½, printed two sides	5.50	6.50	9.50	6.00
¼ Sheet, 7x8½, printed one side	4.75	5.75	8.50	6.00
¼ Sheet, 7x8½, printed two sides	7.50	8.50	11.50	8.00
½ Sheet, 8½x14, printed one side	8.75	10.25	14.00	8.50
½ Sheet, 8½x14, printed two sides	12.00	13.50	20.00	10.00
Full Sheet, 8½x28, printed one side	13.25	15.25	24.00	14.00
Full Sheet, 8½x28, printed two sides	21.75	23.75	31.50	15.00
Full Sheet, 17x14, printed one side	18.00	20.00	26.00	14.50
Full Sheet, 17x14, printed two sides	28.00	30.00	38.00	15.00

The above prices are based on blank or marginal ruled stock, padded or loose.

General forms.

Section 6. **General office forms, Original Only.** Printed one or two sides, padded or loose. Actual cost of paper per ream pound indicates the grade number listed herewith. Grade numbers cover either 13, 16 or 20 pound substance paper.

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	250	500	1000	Addl. 1000	
Size 4⅜x8½.					
1 side, Grade 12	$ 5.40	$ 6.40	$ 7.60	$ 2.75	General forms.
1 side, Grade 17	5.50	6.55	7.90	3.00	
1 side, Grade 27	5.65	6.85	8.55	3.25	
Same form other side add	.75	1.25	2.25	2.00	
Different form other side add	2.25	2.75	3.50	2.00	
Size 5½x8½					
1 side, Grade 12	7.75	8.75	10.25	2.75	
1 side, Grade 17	7.75	8.75	10.50	3.25	
1 side, Grade 27	8.00	9.25	11.50	3.75	
Different other side add	3.75	4.25	5.00	1.90	
Size 6x9½—7¼x8½					
1 side, Grade 12	8.00	9.00	10.50	2.75	
1 side, Grade 17	8.00	9.25	11.00	3.00	
1 side, Grade 27	8.25	9.75	12.00	3.75	
Different other side add	4.00	4.50	5.00	2.00	
Size 8½x11					
1 side, Grade 12	15.65	16.90	19.05	4.00	
1 side, Grade 17	15.90	17.40	19.25	4.55	
1 side, Grade 27	16.40	18.15	21.25	5.80	
Different other side add	9.00	9.75	10.50	1.50	
Size 8½x14 or 9½x12					
1 side, Grade 12	17.75	19.25	21.50	4.00	
1 side, Grade 17	18.00	19.50	22.25	4.75	
1 side, Grade 27	18.50	20.75	24.50	7.00	
Different other side add	10.25	11.00	12.00	2.00	
Size 11¼x14					
1 side, Grade 12	20.75	22.25	24.75	4.50	
1 side, Grade 17	21.00	22.75	26.00	5.50	
1 side, Grade 27	21.50	24.00	28.25	7.50	
Different other side add	12.25	12.75	13.75	2.00	
Size 12x19					
1 side, Grade 12	24.75	26.50	29.50	5.25	
1 side, Grade 17	25.25	27.25	31.00	6.75	
1 side, Grade 27	26.00	29.00	34.25	10.00	
Different other side add	15.50	16.25	17.25	2.50	

Section 7. **General Forms, Receipts and Requisitions in Duplicate or More Copies.** Actual cost of paper per pound for both original and duplicate copies is indicated Forms in duplicate or more copies.

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by the grade numbers listed herewith. Grade numbers cover either 13, 16 or 20 substance paper, perforated, gathered, numbered and padded.

Forms in duplicate or more copies.

Sizes 3½x8½ or less 1 side only	250	500	1000	Addl. 1000
Original and Duplicate,				
Grade 30	$ 5.90	$ 7.20	$ 9.55	$ 4.15
Grade 35	5.90	7.30	9.65	4.25
Grade 40	6.00	7.40	9.95	4.50
Triplicate or more, and for each additional blank, Grade 20	1.25	1.75	2.50	2.00
Bound 50 sets to book in tag or marble board cover	1.00	1.65	2.90	2.65
If original printed both sides add	3.25	3.75	4.50	1.50
If original and duplicate printed both sides, add..	3.75	4.50	6.00	3.00
Sizes over 3½x8½, but not over 5½x8½, 1 side only				
Original and Duplicate,				
Grade 30	8.00	9.75	13.00	5.50
Grade 35	8.00	9.75	13.25	5.75
Grade 40	8.25	10.00	13.50	6.00
For each additional blank add, Grade 20	1.50	2.50	4.00	2.75
Bound 50 sets to book in tag or marble board cover	1.00	1.65	2.90	2.65
If original printed both sides add	5.75	6.25	7.00	1.50
If original and duplicate printed both sides add..	6.25	7.00	7.50	1.50
Sizes over 5½x8½ but not over 8½x11 1 side only				
Original and duplicate,				
Grade 30	12.25	15.00	19.25	7.75
Grade 35	12.50	15.25	19.75	8.25
Grade 40	12.50	15.50	20.25	8.75
For each additional blank add, Grade 20	1.50	2.75	5.00	4.00

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	250	500	1000	Addl. 1000	
Bound 50 sets to book in tag or marble board cover	1.20	2.20	3.55	3.30	Forms in duplicate or more copies.
If original printed both sides add	9.00	9.75	10.50	1.50	
Original and duplicate printed both sides	9.75	10.50	11.75	2.50	
Sizes over 8½x11 but not over 8½x14 or 9½x12 1 side only					
Original and Duplicate,					
Grade 30	14.00	17.00	22.00	8.75	
Grade 35	14.25	17.50	22.75	9.50	
Grade 40	14.25	17.75	23.75	10.00	
For each additional blank add, Grade 20	1.75	3.25	5.75	4.50	
Bound 50 sets to book in tag or marble board cover	1.20	2.20	3.55	3.30	
Original printed both sides	10.25	11.00	12.00	2.00	
Original and duplicate printed both sides	11.00	12.00	14.00	2.75	
Sizes over 8½x14 but not over 11x17 1 side only					
Original and Duplicate,					
Grade 30	18.00	21.25	27.50	10.75	
Grade 35	18.25	21.75	28.50	11.75	
Grade 40	18.50	22.25	29.50	12.75	
For each additional blank add, Grade 20	2.50	4.25	7.25	5.75	
Bound 50 sets to book in tag or marble board cover	1.70	3.00	4.75	4.55	
Original printed both sides	13.50	14.25	15.25	2.00	
Original and Duplicate printed both sides	14.25	15.25	17.00	3.25	
Sizes over 11x17 but not over 12x19 or 14x17, 1 side only					
Original and Duplicate,					
Grade 30	20.00	23.75	30.75	12.75	
Grade 35	20.25	24.25	32.00	13.50	

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	250	500	1000	Addl. 1000
Grade 40	20.75	25.00	33.25	14.75
For each additional blank add, Grade 20	2.75	4.75	8.50	6.75
Bound 50 sets to book in tag or marble board cover	1.70	3.00	4.75	4.55
Original printed both sides	15.00	16.25	17.25	2.00
Original and Duplicate printed both sides	16.25	17.25	19.00	3.25

Real estate tax receipts.

Section 8. **Real Estate Tax Receipts in Quintuple.** Perforated, gathered, numbered, different color paper for each sheet, bound in books of 50 sets each complete.

	1000	2000	3000	Addl. 1000
Size 8½x11	$64.40	$106.50	$146.00	$41.40
If additional sheet add	4.75	8.50	12.00	3.50
Add for extra color	4.75	6.25	7.50	1.25
If statement printed on other side add	5.50	6.50	7.50	1.25
Size 9¼x11⅞ or 8½x14	73.65	120.25	166.50	46.25
If additional sheet add	5.25	9.50	13.75	4.25
Add for extra color	5.00	6.50	8.00	1.50
If statement printed on other side add	6.25	8.25	10.25	2.00
Size 10¾x16¾ or 11x17	94.25	152.20	208.80	56.60
If additional receipt add	6.75	12.00	17.25	5.25
Add for extra color	6.50	8.50	10.25	2.00
If statement printed on back add	8.25	10.00	11.75	2.00

	500	1000	2000	3000	Addl. 1000
Delinquent tax receipts in triplicate, perforated, numbered, gathered, bound in books of 50 sets each complete	$22.90	$31.90	$47.75	$63.50	$14.50
Motor vehicle license receipt in triplicate, per-					

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	500	1000	2000	3000	Addl. 1000	Delinquent tax receipts.
forated, numbered, gathered, bound in 50 sets to book complete	.....	16.90	25.70	34.25	7.65	
Motor vehicle delinquent tax receipt in quadruple. Perforated, gathered, numbered and bound in books of 50 sets complete	.....	26.15	40.00	53.75	12.25	
Personal tax receipts in quadruple, gathered, numbered, perforated, bound in books of 50 sets complete, one or two color ink	.....	27.15	42.25	56.50	13.50	

Section 9. **Assessment Lists.** Assessment lists.

	1000	2000	3000	Addl. 1000
Size 8½x14 in duplicate, gathered, padded, perforated	$53.75	$75.50	$97.00	$20.77
If original only, padded	40.00	46.75	53.50	6.75
Bound in books of 50 or 75 sets add	4.50	6.90	9.30	2.40
Size 8¾x15 to 9½x16½ or 9½x17 in duplicate	61.25	86.00	110.25	22.63
If original only, padded	46.25	53.75	61.00	8.25
If bound in books of 50 or 75 sets add	5.75	9.35	12.95	3.60
Size 14x17 in duplicate	65.50	105.50	134.75	27.90
If bound in books of 50 or 75 sets add	6.70	11.00	15.00	4.00
Size 14x17, original only, padded	56.35	64.55	72.95	8.40

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Printing corner card on envelopes.

Section 10. Imprinting corner card on government stamped envelopes and printing post cards, stock furnished.

	500	1000	2000	3000	Addl. 1000
Envelopes	$2.00	$3.00	$5.00	$7.00	$2.00
Post cards, 1 side printed	2.75	3.50	5.00	6.50	1.50
Both sides printed	5.25	6.75	9.75	12.75	3.00

Index cards.

Section 11. **Index Cards.**

White or color, 3x5. Punching included. Printed.

	500	1000	2000	Addl. 1000
One side	$ 6.50	$ 8.25	$11.50	$ 3.00
Different form other side	11.25	13.50	17.50	4.00
Same form both sides	7.75	10.25	15.00	4.00
4x6 or 3½x5½. One side	7.75	9.75	13.25	3.50
Different form other side	13.25	15.75	20.25	5.00
Same form both sides	9.00	11.75	16.75	5.00
5x8. One side	9.75	12.75	18.00	5.00
Different form other side	16.75	20.75	27.50	7.00
Same form both sides	11.00	14.75	21.50	7.00

Special ruled and printed forms.

Section 12. **Special Ruled and Printed Forms.** Prices apply to both sides ruled different with deductions for ruling and printing the same both sides or ruled and printed one side only. Prices include punching for loose leaf holder with rings or posts and green edging of sheets. Numbering of guide lines printed along binding edge of sheet, add $1.50 for each guide line.

8½x11 TOTAL OF 8 UNIT COLUMNS, BOTH SIDES
Extra Unit Columns 50 cents each.

	250	500	1000	Addl. 1000
Grade 25, 28 Sub.	$16.50	$19.50	$25.50	$11.25
Grade 25, 32 Sub.	17.00	24.25	27.25	12.25
Grade 50, 36 Sub.	19.50	24.00	34.50	18.25
Deduct if both sides alike	5.00	4.75	4.50	.25
Deduct if printed and ruled 1 side only	6.75	7.50	9.00	3.00

8½x14 TOTAL OF 10 UNIT COLUMNS, BOTH SIDES
Extra Unit Columns 50 cents each.

Grade 25, 28 Sub.	$19.75	$23.50	$30.50	$12.75
Grade 25, 32 Sub.	20.00	24.00	32.05	13.75

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	250	500	1000	Addl. 1000	
Grade 50, 36 Sub.	23.00	29.00	40.75	21.25	
Deduct if both sides ruled and printed alike	7.00	6.75	6.50	.25	Special ruled and printed forms.
Deduct if ruled and printed 1 side only	8.25	9.00	10.50	3.00	

9½x12 TOTAL OF 8 UNIT COLUMNS, BOTH SIDES
Extra Unit Columns 50 cents each.

Grade 25, 28 Sub.	$17.75	$21.75	$28.50	$12.50
Grade 25, 32 Sub.	18.25	22.75	30.50	14.50
Grade 50, 36 Sub.	20.50	27.00	39.00	21.00
Deduct if both sides ruled and printed alike	5.25	5.00	4.75	.25
Deduct if ruled and printed 1 side only	7.00	7.75	9.25	2.50

9½x24 TOTAL OF 16 UNIT COLUMNS, BOTH SIDES
Extra Unit Columns 50 cents each.

Grade 25, 28 Sub.	$35.50	$41.25	$52.50	$21.00
Grade 25, 32 Sub.	36.00	42.25	54.50	23.00
Grade 50, 36 Sub.	41.00	51.75	72.50	37.50
Deduct if both sides ruled and printed alike	11.50	11.25	11.00	.50
Deduct if ruled and printed 1 side only	14.00	16.00	19.00	4.00

10½x16 TOTAL OF 12 UNIT COLUMNS, BOTH SIDES
Extra Unit Columns 50 cents each.

Grade 25, 28 Sub.	$23.00	$28.50	$38.25	$17.00
Grade 25, 32 Sub.	23.25	29.25	39.50	18.25
Grade 50, 36 Sub.	27.25	37.00	54.00	32.00
Deduct if both sides ruled and printed alike	8.50	8.25	8.00	.50
Deduct if ruled and printed 1 side only	10.75	12.50	15.50	4.00

11x14 TOTAL OF 10 UNIT COLUMNS, BOTH SIDES
Extra Unit Columns 50 cents each.

Grade 25, 28 Sub.	$21.50	$25.75	$33.75	$14.75
Grade 25, 32 Sub.	22.00	26.50	35.00	16.00
Grade 50, 36 Sub.	25.25	32.75	47.50	21.75
Deduct if both sides ruled and printed alike	7.00	6.75	6.50	.25

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	250	500	1000	Addl. 1000
Special ruled and printed forms. Deduct if ruled and printed 1 side only	8.25	9.00	10.50	2.50

11x17 TOTAL OF 12 UNIT COLUMNS, BOTH SIDES
Extra Unit Columns 50 cents each.

Grade 25, 28 Sub.	$25.50	$31.25	$41.50	$17.75
Grade 25, 32 Sub.	26.00	32.25	43.00	19.25
Grade 50, 36 Sub.	30.00	40.00	59.00	27.50
Deduct if both sides ruled and printed alike	9.50	9.25	9.00	.50
Deduct if ruled and printed 1 side only	11.75	13.50	16.50	4.00

12x9½ TOTAL OF 8 UNIT COLUMNS, BOTH SIDES
Extra Unit Columns 50 cents each.

Grade 25, 28 Sub.	$16.75	$20.50	$27.50	$12.50
Grade 25, 32 Sub.	17.00	21.00	28.50	13.50
Grade 50, 36 Sub.	20.50	27.50	37.00	20.75
Deduct if both sides ruled and printed alike	5.00	4.75	4.50	.25
Deduct if ruled and printed 1 side only	7.00	7.75	9.25	2.50

12x19 TOTAL OF 14 UNIT COLUMNS, BOTH SIDES
Extra Unit Columns 50 cents each.

Grade 25, 28 Sub.	$28.50	$34.75	$46.50	$20.00
Grade 25, 32 Sub.	29.00	35.75	48.50	22.00
Grade 50, 36 Sub.	34.00	45.50	67.50	39.00
Deduct if both sides ruled and printed alike	11.00	10.75	10.50	.25
Deduct if ruled and printed 1 side only	13.25	15.00	18.00	4.00

12x23 TOTAL OF 16 UNIT COLUMNS, BOTH SIDES
Extra Unit Columns 50 cents each.

Grade 25, 28 Sub.	$36.75	$43.00	$56.00	$18.50
Grade 25, 32 Sub.	37.25	44.00	58.25	20.75
Grade 50, 36 Sub.	43.00	55.00	80.00	43.50
Deduct if both sides ruled and printed alike	12.00	11.75	11.50	.50
Deduct if ruled and printed 1 side only	14.50	16.50	19.50	4.00

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Special ruled and printed forms.

12x28 TOTAL OF 18 UNIT COLUMNS, BOTH SIDES
Extra Unit Columns 50 cents each.

	250	500	1000	Addl. 1000
Grade 25, 28 Sub.	$49.50	$61.00	$81.50	$36.25
Grade 25, 32 Sub.	50.75	63.00	85.50	40.25
Grade 50, 36 Sub.	62.00	83.00	124.00	70.75
Deduct if both sides ruled and printed alike	15.20	15.00	14.50	.50
Deduct if ruled and printed 1 side only	18.50	20.00	23.50	5.00

14x17 TOTAL OF 12 UNIT COLUMNS, BOTH SIDES
Extra Unit Columns 50 cents each.

Grade 25, 28 Sub.	$28.75	$34.50	$45.75	$20.50
Grade 25, 32 Sub.	29.50	35.50	47.75	22.50
Grade 50, 36 Sub.	32.50	45.50	66.00	38.75
Deduct if both sides ruled and printed alike	10.00	9.75	9.50	.50
Deduct if ruled and printed 1 side only	11.50	12.50	14.50	3.50

14x22 TOTAL OF 14 UNIT COLUMNS, BOTH SIDES
Extra Unit Columns 50 cents each.

Grade 25, 28 Sub.	$40.00	$48.25	$63.50	$27.00
Grade 25, 32 Sub.	40.75	49.50	66.00	29.50
Grade 50, 36 Sub.	48.00	62.50	91.00	49.75
Deduct if both sides ruled and printed alike	13.50	13.00	12.50	.50
Deduct if ruled and printed 1 side only	16.00	17.50	20.00	4.75

14x34 TOTAL OF 20 UNIT COLUMNS, BOTH SIDES
Extra Unit Columns 50 cents each.

Grade 25, 28 Sub.	$59.50	$71.00	$92.00	$37.75
Grade 25, 32 Sub.	60.75	73.00	96.00	41.75
Grade 50, 36 Sub.	72.00	85.00	130.50	77.25
Deduct if both sides ruled and printed alike	19.50	19.00	18.00	1.25
Deduct if ruled and printed 1 side only	22.50	24.25	27.25	5.50

17x11 TOTAL OF 8 UNIT COLUMNS, BOTH SIDES
Extra Unit Columns 50 cents each.

Grade 25, 28 Sub.	$19.00	$24.25	$33.50	$17.25
Grade 25, 32 Sub.	19.50	25.25	35.00	18.75

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Special ruled and printed forms.

	250	500	1000	Addl. 1000
Grade 50, 36 Sub.	23.50	32.75	51.00	41.00
Deduct if both sides ruled and printed alike	5.50	5.25	5.00	.25
Deduct if ruled and printed 1 side only	6.50	7.50	9.50	3.50
17x14 TOTAL OF 10 UNIT COLUMNS, BOTH SIDES Extra Unit Columns 50 cents each.				
Grade 25, 28 Sub.	$24.75	$30.50	$41.75	$20.00
Grade 25, 32 Sub.	25.25	31.50	43.75	22.00
Grade 50, 36 Sub.	31.00	41.50	65.00	35.25
Deduct if both sides ruled and printed alike	9.50	9.25	9.00	.25
Deduct if ruled and printed 1 side only	10.50	11.50	13.50	3.50
17x22 TOTAL OF 14 UNIT COLUMNS, BOTH SIDES Extra Unit Columns 50 cents each.				
Grade 25, 28 Sub.	$42.50	$51.50	$68.50	$29.50
Grade 25, 32 Sub.	43.30	53.00	71.50	32.50
Grade 50, 36 Sub.	51.25	69.00	103.00	59.75
Deduct if both sides ruled and printed alike	15.00	14.50	14.00	.50
Deduct if ruled and printed 1 side only	15.50	16.75	19.00	4.50
17x28 TOTAL OF 18 UNIT COLUMNS, BOTH SIDES Extra Unit Columns 50 cents each.				
Grade 25, 28 Sub.	$51.50	$63.00	$83.50	$37.25
Grade 25, 32 Sub.	52.75	65.00	87.50	41.25
Grade 50, 36 Sub.	54.00	75.00	126.00	70.75
Deduct if both sides ruled and printed alike	17.50	17.00	16.50	.50
Deduct if ruled and printed 1 side only	21.00	22.75	26.00	6.00
17x46 TOTAL OF 28 UNIT COLUMNS, BOTH SIDES Extra Unit Columns 50 cents each.				
Grade 25, 28 Sub.	$84.00	$101.75	$133.50	$57.25
Grade 25, 32 Sub.	86.00	104.75	140.00	63.75
Grade 50, 36 Sub.	84.50	117.25	201.00	100.50
Deduct if both sides ruled and printed alike	29.50	28.75	28.00	.75
Deduct if ruled and printed 1 side only	35.50	38.00	42.50	8.50

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Special ruled and printed forms.

18x11½ TOTAL OF 8 UNIT COLUMNS, BOTH SIDES
Extra Unit Columns 50 cents each.

	250	500	1000	Addl. 1000
Grade 25, 28 Sub.	$23.50	$29.00	$39.50	$18.25
Grade 25, 32 Sub.	24.00	30.00	41.25	21.25
Grade 50, 36 Sub.	28.50	38.75	58.00	33.00
Deduct if both sides ruled and printed alike	9.00	8.75	8.50	.25
Deduct if ruled and printed 1 side only	10.00	10.75	13.00	3.50

18x23 TOTAL OF 16 UNIT COLUMNS, BOTH SIDES
Extra Unit Columns 50 cents each.

Grade 25, 28 Sub.	$46.25	$57.00	$76.50	$33.00
Grade 25, 32 Sub.	47.00	58.00	79.50	36.00
Grade 50, 36 Sub.	56.50	75.00	113.25	57.50
Deduct if ruled and printed both sides alike	16.50	16.00	15.50	.50
Deduct if ruled and printed 1 side only	18.50	20.50	23.50	5.25

18x46 TOTAL OF 32 COLUMNS, BOTH SIDES
Extra Unit Columns 50 cents each.

Grade 25, 28 Sub.	$91.75	$113.00	$150.50	$62.50
Grade 25, 32 Sub.	93.00	114.00	156.00	65.50
Grade 50, 36 Sub.	112.50	147.50	223.75	106.50
Deduct if both sides ruled and printed alike	31.50	30.50	29.50	1.00
Deduct if ruled and printed 1 side only	35.50	40.00	44.50	8.75

19x12 TOTAL OF 8 UNIT COLUMNS, BOTH SIDES
Extra Unit Column 50 cents each.

Grade 25, 28 Sub.	$25.00	$30.75	$42.00	$20.25
Grade 25, 32 Sub.	25.50	31.75	44.00	22.25
Grade 50, 36 Sub.	30.50	41.25	62.00	36.75
Deduct if both sides ruled and printed alike	9.25	9.00	8.75	.25
Deduct if ruled and printed 1 side only	10.25	11.00	13.25	3.50

19x24 TOTAL OF 16 UNIT COLUMNS, BOTH SIDES
Extra Unit Column 50 cents each.

Grade 25, 28 Sub.	$49.50	$61.50	$81.75	$36.25
Grade 25, 32 Sub.	50.25	63.00	84.75	39.25
Grade 50, 36 Sub.	61.00	81.75	122.25	64.00

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	250	500	1000	Addl. 1000
Deduct if both sides ruled and printed alike	17.50	17.00	16.50	.50
Deduct if ruled and printed 1 side only	20.50	22.50	25.50	5.25

Bound books.

Section 13. **Bound Books.**

Bound books, ruled, printed and paged on 36 sub. No. 1 100% rag ledger. Patent back, flat opening. Complete, including lettering back or side title. The first dimension listed is the binding margin. When greater or intermediate lengths of sheets are furnished with a binding size as listed, the difference between two given lengths is added or subtracted in the correct proportion to either of the given lengths to cover the length of sheet actually furnished. When an intermediate binding size is furnished, the next larger binding size shall be used.

SIZE 10½x16—7 UNIT COLUMNS TO PAGE

No. Pages	300	400	500	560	640
¾ Russia, Printed Head	$27.55	$29.30	$31.30	$32.95	$34.05
¾ Russia, Printed Page	30.95	32.70	34.65	36.35	37.65
Full Russia, Printed Head	31.85	34.25	36.90	39.10	40.80
Full Russia, Printed Page	35.20	37.65	40.30	42.50	44.15

Add for extra unit columns 50c each.
Add for folio printed head $5.50.
Add for folio printed page $11.25.
Add for each printed guide line $1.00.
Add for A to Z index $2.50.

SIZE 11½x18—8 UNIT COLUMNS TO PAGE

No. Pages	300	400	500	560	640
¾ Russia, Printed Head	$32.80	$34.75	$36.90	$38.50	$40.25
¾ Russia, Printed Page	40.00	41.95	44.10	45.70	47.45
Full Russia, Printed Head	37.10	39.70	42.50	44.60	46.75
Full Russia, Printed Page	44.30	46.90	49.70	51.80	53.95

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Add for extra unit columns 50c each.
Add for folio printed head $6.50.
Add for folio printed page $13.00. Bound books.
Add for each printed guide line $1.00.
Add for A to Z index $3.50.

SIZE 12x19—8 UNIT COLUMNS TO PAGE

No. Pages	300	400	500	560	640
¾ Russia, Printed Head	$35.65	$37.85	$40.30	$41.65	$43.75
¾ Russia, Printed Page	42.40	44.60	47.05	48.45	50.50
Full Russia Printed Head	41.05	43.95	47.00	49.15	51.55
Full Russia Printed Page	47.80	50.70	53.80	56.10	58.40

Add for extra unit columns 50c each.
Add for folio printed head $7.00.
Add for folio printed page $13.75.
Add for each printed guide line $1.00.
Add for A to Z index $3.50.

SIZE 14x8½—5 UNIT COLUMNS TO PAGE

No. Pages	300	400	500	560	640
¾ Russia, Printed Head	$20.15	$22.50	$24.10	$25.15	$26.30
¾ Russia, Printed Page	26.10	27.45	29.05	29.10	31.25
Full Russia, Printed Head	24.10	25.90	27.90	29.35	20.80
Full Russia, Printed Page	29.05	30.85	32.85	34.30	35.75

Add for extra unit columns 50c each.
Add for folio printed head $3.00.
Add for folio printed page $8.00.
Add for each printed guide line $1.00.
Add for A to Z index $2.50.

SIZE 14x17—7 UNIT COLUMNS TO PAGE

No. Pages	300	400	500	560	640
¾ Russia Printed Head	$36.25	$38.70	$41.65	$42.80	$45.60
¾ Russia Printed Page	44.35	46.81	49.75	52.95	53.70
Full Russia Printed Head	40.95	44.10	47.70	50.40	52.55

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Bound books.

No. Pages	300	400	500	560	640
Full Russia Printed Page	49.05	61.20	55.80	58.50	60.65

Add for extra unit columns 50c each.
Add for folio printed head $6.50.
Add for folio printed page $13.75.
Add for each printed guide line $1.25.
Add for A to Z index $3.50.

SIZE 14x20—8 UNIT COLUMNS TO PAGE

No. Pages	300	400	500	560	640
¾ Russia Printed Head	$45.90	$50.55	$54.70	$57.85	$60.30
¾ Russia Printed Page	48.45	53.10	57.75	60.15	63.90
Full Russia Printed Head	48.80	54.55	57.70	59.85	62.30
Full Russia Printed Page	53.60	57.30	61.45	64.60	67.05

Add for extra unit columns 50c each.
Add for folio printed head $7.50.
Add for folio printed page $16.50.
Add for each printed guide line $1.25.
Add for A to Z index $4.00.

SIZE 16x10½—5 UNIT COLUMNS TO PAGE

No. Pages	300	400	500	560	640
¾ Russia Printed Head	$25.30	$27.30	$29.70	$31.35	$32.90
¾ Russia Printed Page	32.05	34.05	36.45	38.10	39.90
Full Russia Printed Head	32.95	35.60	38.70	40.85	43.05
Full Russia Printed Page	36.35	38.90	42.10	44.20	46.35

Add for extra unit columns 50c each.
Add for folio printed head $4.00.
Add for folio printed page $10.25.
Add for each printed guide line $1.25.
Add for each A to Z index $3.50.

SIZE 16x21—8 UNIT COLUMNS TO PAGE

No. Pages	300	400	500	560	640
¾ Russia Printed Head	$44.60	$48.05	$52.05	$54.90	$57.50

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No. Pages	300	400	500	560	640	
¾ Russia Printed Page	53.10	56.60	60.55	63.50	66.05	
Full Russia Printed Head	50.40	54.60	59.20	62.45	65.85	Bound books.
Full Russia Printed Page	59.00	63.15	67.75	71.00	74.40	

Add for extra unit columns 50c each.
Add for folio printed head $8.00.
Add for folio printed page $18.00.
Add for each printed guide line $1.25.
Add for A to Z index $4.00.

SIZE 17x14—7 UNIT COLUMNS TO PAGE

No. Pages	300	400	500	560	640
¾ Russia Printed Head	$32.85	$35.35	$38.25	$40.65	$42.45
¾ Russia Printed Page	40.95	43.45	46.35	48.75	50.55
Full Russia Printed Head	38.05	41.20	44.80	47.75	49.90
Full Russia Printed Page	46.10	49.30	52.90	55.85	57.95

Add for extra unit columns 50c each.
Add for folio printed head $5.50.
Add for folio printed page $12.75.
Add for each printed guide line $1.25.
Add for A to Z index $3.50.

SIZE 17x28—8 UNIT COLUMNS TO PAGE

No. Pages	300	400	500	560	640
¾ Russia Printed Head	$52.05	$56.85	$62.10	$65.60	$69.90
¾ Russia Printed Page	63.75	69.30	73.80	78.20	81.60
Full Russia Printed Head	61.95	67.85	74.25	79.50	83.60
Full Russia Printed Page	73.65	79.55	85.95	90.80	95.10

Add for extra unit columns 50c each.
Add for folio printed head $9.50.
Add for folio printed page $20.00.
Add for each printed guide line $1.25.
Add for A to Z index $6.00.

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Bound books.

SIZE 18x11½—5 UNIT COLUMNS TO PAGE

No. Pages	300	400	500	560	640
¾ Russia Printed Head	$29.65	$31.60	$34.00	$36.05	$37.45
¾ Russia Printed Page	37.75	39.70	42.10	44.15	45.55
Full Russia Printed Head	33.95	36.55	39.48	42.30	43.55
Full Russia Printed Page	42.05	44.65	47.70	50.30	52.10

Add or extra unit columns 50c each.
Add for folio printed head $5.00.
Add for folio printed page $12.00.
Add for each printed guide line $1.25.
Add for A to Z index $3.50.

SIZE 18x23—8 UNIT COLUMNS TO PAGE

No. Pages	300	400	500	560	640
¾ Russia Printed Head	$49.65	$54.20	$59.20	$63.50	$66.55
¾ Russia Printed Page	59.55	64.10	69.30	73.25	76.45
Full Russia Printed Head	57.95	63.40	69.30	74.15	78.05
Full Russia Printed Page	67.90	73.30	79.20	84.05	87.95

Add for extra unit columns 50c each.
Add for folio printed head $9.00.
Add for folio printed page $19.00.
Add for each printed guide line $1.25.
Add for each A to Z index $5.50.

SIZE 19x12—5 UNIT COLUMNS TO PAGE

No. Pages	300	400	500	560	640
¾ Russia Printed Head	$31.60	$33.80	$36.45	$38.70	$40.20
¾ Russia Printed Page	39.70	41.90	44.55	46.75	48.30
Full Russia Printed Head	37.00	39.90	43.20	45.95	48.05
Full Russia Printed Page	45.10	48.00	51.30	54.05	56.15

Add for extra unit columns 50c each.
Add for folio printed head $5.50.
Add for folio printed page $12.75.
Add for each printed guide line $1.25.
Add for A to Z index $3.50.

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SIZE 19x24—8 UNIT COLUMNS TO PAGE

No. Pages	300	400	500	560	640	
¾ Russia Printed Head	$52.05	$57.85	$62.10	$66.50	$69.90	Bound books.
¾ Russia Printed Page	63.75	68.30	73.80	78.20	81.60	
Full Russia Printed Head	61.95	67.85	74.25	79.10	83.60	
Full Russia Printed Page	73.65	78.80	85.95	90.80	95.30	

Add for extra unit columns 50c each.
Add for folio printed head $9.50.
Add for folio printed page $20.00.
Add for each printed guide line $1.25.
Add for A to Z index $6.00.

Section 14. **Size 18x11½ Record Books Only.** Record books.

Bound or loose leaf style with binder.

No. Pages	560	640
Marginal record ruled stock form grade 50, 36 sub. full Russia stock ruled not printed	$31.50	$33.40
Full Russia printed head	39.00	41.25
Full Russia printed page	46.15	48.75

Add for folio printed head $1.50.
Add for folio printed page $12.00.
Add for A to Z index $3.50.

Loose leaf record binders only, full Russia, letter with back title 7 or 8 quire capacity, each	$26.50
Record ruled sheets, No. 1, 50 grade, 36 sub. ledger stock ruled marginal form, per M sheets	$30.00

Section 15. **County and School Warrants.** County and school warrants.

	250	500	1000	Addl. 1000
Warrants with stub, size 4x14″ on grade 27 bond or safety paper, either single or more on a sheet, numbered and bound in cardboard covers	$ 7.25	$ 9.25	$13.00	$ 7.00

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School warrants.

	250	500	1000	Addl. 1000
School warrants in triplicate, size 4x9⅜, grade 27, 16 sub. on original and grade 12, 16 sub. duplicate and triplicate. Duplicate and triplicate printed in black and red ink; original black only. Original and duplicate perforated. Bound 50 sets to book	$12.65	$16.60	$23.15	$10.55

County warrants.

	500	1000	Addl. 1000
County warrants in duplicate or foldover style, three or more on a sheet, perforated, numbered, gathered and punched for loose leaf binder, grade 27 bond or safety paper	$21.50	$37.50	$25.00

Binding.

For binding warrants in duplicate or foldover style, check binding, 1 book of 1000 warrants..... $2.50

Half binding 1 book of 1000 warrants $4.50

Election supplies and ballots.

Section 16. **Election Supplies and Ballots.**

Tally books for primary or general election, each		$ 1.25
Tally books for judicial candidates, primary elections, each		.50
Poll books primary or general election, each		1.25
Envelopes for poll books, 10x15 inches, each		.25
Envelopes for tally sheets, 10x15 inches, each		.25
Envelopes for voted ballots, 15x18 inches, each		.45
Envelopes for unused ballots, 15x18 inches, each		.45
Envelopes for return of election books, 17x22 inches, each		.45
Envelopes for precinct registers, 17x22 inches, each		.45
Envelopes for election returns, 9½x4⅛ inches, each		.10
Envelopes for absent voter send out or return 6½x9½ or 6x9 inches	200	12.00
Additional	100	3.50

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Envelopes for absent voter return ballots to judges of election, 10x15 inches, each		$ .25	Absent voter envelopes.
Absent voter record sheets, size 11x21, fold-over	100	6.50	
Additional	100	4.50	
Official seals 6½x5 inches, printed on gummed paper	250	3.50	
	500	5.75	
Certificates of election, with stub, size 11x17, check bound	50	7.50	Certificates of election.
	100	11.25	
	1000	Addl. 1000	
Precinct register sheets, 8½x14, special ruled and printed, both sides, punched, grade 17, 20 sub. bond paper	$42.00	$14.75	Precinct register sheets.
Precinct register sheets, 14x17, special ruled and printed, both sides, punched, grade 17, 20 sub. bond paper	60.25	17.75	
Covers for precinct register, 8½x14, 125 tagboard, front and back cover printed and punched, per 30 sets		6.50	Covers for register.
Each additional 10 sets		1.00	
Covers for precinct register, 14x17, 125 tagboard, front and back cover printed and punched, per 30 sets		8.50	
Each additional 10 sets		1.30	
Instructions to voters, 14x22 on 100 lb. tagboard 100		20.00	Instructions to voters.
Additional 100		5.00	
List of electors 7c per name. This price includes printing up to 100 copies of each precinct list on grade 17, 20 lb. bond paper.			List of electors.

BALLOTS

Ballots.

	1000	Addl. 1000
Ballots primary election, complete, including numbering, perforating, assembling, rotating and stitching per party	$45.00	$35.00
Ballots for judicial candidates, complete, including numbering, perforating and rotating	15.00	9.00
Ballots, initiative and referendum, constitutional amendment, complete, including perforating	10.00	6.00

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		1000	Addl. 1000
	Ballots general election, complete, including numbering and perforating	65.00	35.00
	Where constitutional amendments, intiative and referendum measures appear on general election ballot	7.00	1.50

Section 17. **Stock Forms Without County Name.**

Stock forms.	Budget form C B 2—per 100	$ 5.25	
	Budget form C B 3—per 100	5.25	
	Budget form C B 4—per 100	5.25	
	Budget form C B 5—per 100	6.75	
	Budget form C B 6—per 100	6.75	
	Budget form C B 7—per 100	9.00	
Motor vehicle license register.	Motor vehicle license register sheets, size 11x14, ruled and printed one side, per 100	$ 3.00	
Justice dockets.	Justice docket, size 320 page, each	18.00	
Report of justice fees.	Report of justice fees received, size 14x17, ruled and printed one side, per 100	6.00	
Teachers' registers.	Teachers' registers		
	A. Monthly register, each	.35	
	B. Six weeks register, each	.55	
	C. Six weeks register, complete with report blanks and envelopes, each	.75	
District school budget applications.	District school budget applications, form 1	100 4.00	
		Additional 100 3.00	
	High school budget application sheets	100 5.00	
		Additional 100 4.00	
Budget record.	District school budget record sheets, ruled and printed one side, size 13¾x21¾	100 4.50	
		Additional 100 4.00	
School forms.	School census reports	per 250	5.00
		per 500	9.00
	Teachers' contracts	per 50	3.00
		per 100	4.50
	Trustees' annual reports	per 50	5.00
		per 100	9.00
	Teachers' reports	per 250	6.00
		per 500	9.75
	Superintendent's or principal's reports	per 100	4.00
		Additional 100	3.50

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"Substance" defined.

Section 18. That for the purpose of defining the meaning of the word "substance", used in connection with paper stock mentioned herein, it is understood that all substance weights are to be computed on the basic size 17x22 inches; conforming to the uniform scale of sizes and weights as used by paper manufacturers. The words "grade number" relate to price per pound of paper in ream lots.

"Grade number."

Bids.

Section 19. Bids may be made either on the entire act, or bids may be made under each section. If each section is bid upon separately the section must be bid upon in its entirety and not upon individual items in such section.

Prices on books and printing not covered herein.

All other blank books and printing not covered herein shall be furnished at prices not in excess of the prices for such work as set forth in the current Franklin Printing Catalog list.

Contract to newspaper most suitable.

Section 20. The contract shall be let to the newspaper that in the judgment of the county commissioners shall be most suitable for performing said work, provided, that the county commissioners shall require of any contractor to do such county printing, a good and sufficient undertaking in such sum as said commissioners may deem advisable, signed by at least two sufficient sureties, conditioned to the effect that said contractor will faithfully perform all of the conditions of said contract in accordance with this act and the terms of such contract; provided that nothing in this act shall be construed so as to compel the acceptance of unsatisfactory work; also provided, however, that this requirement shall not affect any contract made prior to the passage of this act. Such contract for printing shall extend for a period of not more than two years. All newspapers which may receive any contract for printing under this act and which may not be able to execute any part of such contract shall be required to sublet such contract or portion of contract to some newspaper or printing establishment within the State, which shall do the work under the contract so sub-let entirely within the State with Montana labor.

Bond by contractor.

Unsatisfactory work.

Prior contracts excepted.

Term of contract.

Subletting.

What prices include.

Section 21. All prices set forth herein include paper stock specified, all printing, and work complete and delivered at the court house.

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Act not applicable to printing for county fairs.

Section 22. None of the provisions of this act shall apply to any printing or advertising that may be required in connection with the holding of county fairs and expositions.

Penalty.

Section 23. That any violation of this act shall be deemed a misdemeanor and punished as such.

Repealing clause.

Section 24. That Section 4482, Revised Codes of Montana 1935, and all acts and parts of acts in conflict herewith are hereby repealed.

Approved March 15, 1937.

CHAPTER 119

An Act Relating to the Re-issuance of Contracts for Tax Deed Lands and Providing the Conditions Upon Which Such Contracts Shall Be Re-issued.

Be it enacted by the Legislative Assembly of the State of Montana:

Re-issuance of contracts for purchase of tax deed lands.

Section 1. All persons who hold or have held a contract with a county for the purchase of tax deed lands who have paid the taxes thereon up to and including the year 1935, and who, prior to January 1, 1937, had their contracts cancelled or which contracts are subject to cancellation because of non-payment of taxes under Section 2208.1 of the Revised Codes of Montana, 1935, shall be entitled, upon application to the county commissioners, and upon payment of all delinquent taxes, to have their contract reissued, subject to the following condition:

Condition.

No interest or penalties chargeable.

The purchaser shall not be charged with any delinquent interest or any penalties which may have accrued under the original contract.

Power and duty of commissioners.

Section 2. The county commissioners are hereby empowered and directed to reïssue such contract in accordance with the provisions of this act.

Exception, as to land sold by county.

Section 3. This act shall not apply in cases where any such land has been sold by the county since the cancellation of such contract.

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Section 4. This act shall remain in effect only until the 31st day of December, 1938. Effective date.

Section 5. This act shall be in full force and effect from and after its passage and approval.

Approved March 15, 1937.

CHAPTER 120

An Act to Amend Subsection 6, Section 4028, of the Revised Codes of Montana, 1935, Relating to Exempting Stock of Certain Cooperative Associations From the Provisions of the State Investment Law, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 4028, Revised Codes of Montana of 1935, be and the same is hereby amended to read as follows: Amending clause.

"Section 4028. **Securities to Which Provisions of Act Not Applicable.** The provisions of this act shall not apply to the following securities. Securities excepted.

1. Securities of the United States or of any foreign government, with which the United States maintains diplomatic relationship at the time of the sale thereof, or of any state or territory, or of any county, city, township, district or other public taxing subdivision of any state or territory of the United States. Securities of United States, state and subdivisions.

2. Securities of public or quasi-public corporations, the issues of which are regulated by a state officer or board of this State, or by a state officer or board of similar authority, of any state or territory of the United States, or securities senior thereto. Securities of public corporations issued under regulation.

3. Securities of state or national banks or trust companies or building and loan associations authorized by the superintendent of banks to do business in this State. Banks and building and loan companies.

4. Policy contracts of insurance companies licensed to do business in this State. Insurance policy contracts.

5. Securities of any domestic corporation not organized for profit. Non-profit corporations.

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Co-operative associations.

6. Securities of any co-operative association organized in good faith under the laws of this State, exclusively for the purpose of conducting upon the co-operative plan, among its stock-holders, any or all of the following business: Any agricultural, dairy, livestock or produce business, the business of selling marketing or otherwise handling any agricultural, dairy or livestock products, or other produce raised or produced by the stockholders of such association, or by any co-operative association, the manufacture of any products from any agricultural, dairy or livestock products, or other produce, produced by the members of such association, any business incidental to any of the above purposes; or the securities of any cooperative association organized in good faith under the laws of this State, for the purpose of conducting the business of operating a rural telephone system or systems or the business of operating a rural electrification system or systems for the transmission or distribution of electric energy on a cooperative basis, or the sale and distribution of electrical and plumbing appliances under the provisions of the federal rural electrification act.

Listed securities.

7. Securities listed on the New York stock exchange, the Boston stock exchange, the board of trade of the city of Chicago, Chicago stock exchange or the New York curb exchange, which securities have been so listed pursuant to official authorization by such exchange, and all securities senior to any securities so listed or represented by subscription rights which have been so listed or evidence of indebtedness guaranteed by companies, any stock of which is so listed, such securities to be exempt only so long as such listing shall remain in effect.

Real estate mortgage notes.

8. Notes secured by mortgages for real estate located in the State of Montana.

Sale by owner other than the issuer.

9. Securities sold by the owner for the owner's account exclusively where the owner is not the issuer or an underwriter thereof, when not made in the course of continued and repeated transactions of a similar nature.

Corporate securities held by fifty persons or less.

10. Securities of a corporation where the persons holding the same shall not exceed fifty in number.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are expressly repealed.

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Section 3. If any clause, section or provision of this act shall, for any reason, be adjudged, by a court of competent jurisdiction, to be invalid, such adjudication shall not affect the other and remaining portions thereof, but they shall be of the same force and effect as if enacted separately. Validity of act.

Section 4. This act shall be in full force and effect from and after the date of its passage and approval. Effective date.

Approved March 15, 1937.

CHAPTER 121

An Act to Authorize and Regulate the Issuance of Bonds for the Purpose of Refinancing, or of Refinancing and Improving, Revenue-Producing Works, Undertakings, and Projects by Cities and Towns and the State Water Conservation Board and to Provide for the Payment of Such Bonds.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Short Title.** This act may be cited as "The Revenue Bond Refinancing Act of 1937." Short title.

Section 2. **Definitions.** The following terms wherever used or referred to in this act shall have the following meaning, unless a different meaning appears from the context: Definitions.

(a) The term "municipality" shall mean any city or town of this State or the state water conservation board; "Municipality."

(b) The term "governing body", in the case of a city or town, shall mean the council, commission, or other body, board, officer or officers having charge of the finances thereof, and, in the case of the state water conservation board, shall mean the board itself; "Governing body."

(c) The term "law" shall mean any act or statute, general, special or local, of this State, including, without being limited to, the charter of any municipality; "Law."

(d) The term "enterprise" shall mean any work, undertaking, or project which the municipality is or may hereafter be authorized to construct and from which the municipality has heretofore derived or may hereafter "Enterprise."

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derive revenues, for the refinancing, or the refinancing and improving of which enterprise, refunding bonds are issued under this act, and such enterprise shall include all improvements, betterments, extensions and replacements thereto, and all appurtenances, facilities, lands, rights in land, water rights, franchises, and structures in connection therewith or incidental thereto;

"Federal agency." (e) The term "federal agency" shall include the United States of America, the president of the United States of America, the federal emergency administrator of public works, Reconstruction Finance Corporation, or any agency, instrumentality or corporation of the United States of America, which has heretofore been or may hereafter be designated or created by or pursuant to any act or acts or joint resolution or joint resolutions of the congress of the United States of America, or which may be owned or controlled, directly or indirectly, by the United States of America;

"Improving." (f) The term "improving" shall mean reconstructing, replacing, extending, repairing, bettering, equipping, developing, embellishing or improving or any one or more of all of the foregoing;

"Refunding bonds." (g) The term "refunding bonds" shall mean notes, bonds, certificates or other obligations of a municipality issued pursuant to this act, or pursuant to any other law, as supplemented by, or in conjunction with this act;

"Refinancing." (h) The term "refinancing" shall mean funding, refunding, paying or discharging, by means of refunding bonds or the proceeds received from the sale thereof, all or any part of any notes, bonds, or other obligations heretofore or hereafter issued to finance or to aid in financing the acquisition, construction or improving of an enterprise and payable solely from all or any part of the revenues thereof, including interest thereon in arrears or about to become due, whether or not represented by coupons or interest certificates;

"Revenues." (i) The term "revenues" shall mean all fees, tolls, rates, rentals and charges to be levied and collected in connection with and all other income and receipts of whatever kind or character derived by the municipality from the operation of any enterprise or arising from any enterprise;

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"Holder of bonds."

"Bondholder."

(j) The term "holder of bonds" or "bondholder" or any similar term shall mean any person who shall be the bearer of any outstanding refunding bond or refunding bonds registered to bearer or not registered, or the registered owner of any such outstanding bond or bonds which shall at the time be registered other than to bearer;

Singular and plural number.

"Persons."

(k) Words importing the singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations.

Grant of power to municipalities.

Section 3. **Grant of Power.** Any municipality shall have power and is hereby authorized to refinance, or to refinance and improve, any enterprise, and for such purpose or purposes to borrow money and issue refunding bonds from time to time.

Procedure for authorizing bonds.

Section 4. **Procedure for Authorization.** The refunding bonds shall be authorized by resolution or resolutions of the governing body of the municipality. Such resolutions may be adopted at a regular or special meeting and at the same meeting at which they are introduced by a majority of all the members of the governing body then in office. Such resolution or resolutions shall take effect immediately upon the adoption thereof. No other proceedings or procedure of any character whatever shall be required for the issuance of refunding bonds by the municipality.

Terms of refunding bonds.

Section 5. **Terms of Refunding Bonds.** The refunding bonds may be issued in one or more series, may bear such date or dates, may mature at such time or times not exceeding the period of usefulness of the enterprise, as determined by the governing body in its discretion, nor in any event exceeding forty years from their respective dates, may bear interest at such rate or rates not exceeding the maximum rate of interest borne by the notes, bonds, or other obligations refinanced thereby, may be in such denomination or denominations, may be in such form, either coupon or registered, may carry such registration and conversion privileges, may be executed in such manner, may be payable in such medium of payment, at such place or places, may be subject to such terms of redemption, with or without a premium, may be declared or become due before the maturity date thereof, may provide for the replacement of mutilated,

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destroyed, stolen, or lost bonds, may be authenticated in such manner and upon compliance with such conditions, and may contain such other terms and covenants, as may be provided by resolution or resolutions of the governing body of the municipality. Notwithstanding the form or tenor thereof, and in the absence of an express recital on the face thereof that the bond is nonnegotiable, all refunding bonds shall at all times be, and shall be treated as, negotiable instruments for all purposes.

Refunding bonds as negotiable instruments.

Validity as affected by change of officers of municipality.

Section 6. **Validity of Refunding Bonds.** Refunding bonds bearing the signatures of officers of the municipality in office on the date of the signing thereof shall be valid and binding obligations of the municipality for all purpose, notwithstanding that before the delivery thereof any or all of the persons whose signatures appear thereon shall have ceased to be officers of the municipality, the same as if such persons had continued to be officers of the municipality until after the delivery thereof. The validity of the authorization and issuance of the refunding bonds shall not be dependent on or affected in any way by proceedings taken for the improving of any enterprise for the refinancing and improving of which the refunding bonds are to be issued, or by contracts made in connection with the improving of any such enterprise. Any resolution authorizing refunding bonds may provide that any such refunding bond may contain a recital that such refunding bond is issued pursuant to this act, and any refunding bond containing such recital under authority of any such resolution shall be conclusively deemed to be valid and to have been issued in conformity with the provisions of this act.

Authorization not affected by proceedings for improving enterprise.

When bond conclusively deemed valid.

Sale or exchange of refunding bonds.

Section 7. **Sale or Exchange of Refunding Bonds.** 1. The refunding bonds may be sold or exchanged in installments at different times or an entire issue or series may be sold or exchanged at one time. Any issue or series of refunding bonds may be exchanged in part or sold in part in installments at different times or at one time. The refunding bonds may be sold or exchanged at any time on, before, or after the maturity of any of the outstanding notes, bonds, certificates or other obligations to be refinanced thereby.

For what bonds may be exchanged.

2. If the governing body determines to exchange any refunding bonds, such refunding bonds may be exchanged privately for and in payment and discharge of any of

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the outstanding notes, bonds or other obligations of the municipality issued to finance or to aid in financing the acquisition, the construction, the improving, the refinancing, or the improving and refinancing, of an enterprise. The refunding bonds may be exchanged for a like or greater principal amount of such notes, bonds or other obligations of the municipality, except that the principal amount of the refunding bonds may exceed the principal amount of such outstanding notes, bonds, or other obligations to the extent necessary or advisable, in the discretion of the governing body, to fund interest in arrears or about to become due. The holder or holders of such outstanding notes, bonds, or other obligations need not pay accrued interest on the refunding bonds to be delivered in exchange therefor if and to the extent that interest is due or accrued and unpaid on such outstanding notes, bonds, or other obligations to be surrendered.

Public or private sale.

Price, not less than par.

3. If the governing body determines to sell any refunding bonds, such refunding bonds shall be sold at not less than par at public or private sale in such manner and upon such terms as the governing body shall deem best for the interests of the municipality.

Bonds are special obligations.

Lien upon revenues of enterprise.

Governing body may pledge revenues.

Section 8. **Security of the Refunding Bonds.** 1. The refunding bonds shall be special obligations of the municipality and shall be payable from and secured by a lien upon the revenues of the enterprise, as shall be more fully described in the resolution or resolutions of the governing body authorizing the issuance of the refunding bonds, and, subject to the constitution of the State of Montana, and to the prior or superior rights of any person, any municipality shall have power by resolution of its governing body to pledge and assign for the security of the refunding bonds all or any part of the gross or the net revenues of such enterprise.

Additional security.

2. As additional security for any issue of refunding bonds hereunder, or any part thereof, any municipality shall have power, and is hereby authorized, by resolution of its governing body to confer upon the holders of the refunding bonds all rights, powers and remedies which said holders would be entitled to if they were the owners and had possession of the notes, bonds or other obligations for the refinancing of which such refunding bonds shall have been issued including, but not limited to, the preservation of the lien of such notes, bonds or other

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obligations without extinguishment, impairment or diminution thereof. In the event any municipality exercises the power conferred by this paragraph, (a) each refunding bond shall contain a recital to the effect that the holder thereof has been granted the additional security provided by this paragraph and (b) each note, bond, certificate or other obligation of the municipality to be refinanced by any such refunding bonds, shall be kept intact and shall not be cancelled or destroyed until the refunding bonds, and interest thereon, have been finally paid and discharged but shall be stamped with a legend to the effect that such note, bond, certificate or other obligation has been refunded pursuant to the revenue bond refinancing act of 1937.

Recital in bonds as to additional security.

Bonds of same issue equally secured.

3. All refunding bonds of the same issue shall be equally and ratably secured, without priority by reason of number, date of bonds, of sale, of execution or of delivery, by a lien upon the revenues of the enterprise in accordance with the provisions of this section and the resolution or resolutions authorizing the issuance of such refunding bonds.

Existing agreements not impaired.

4. Nothing in this section or in any other sections of this act shall be deemed in any way to alter the terms of any agreements made with the holders of any outstanding notes, bonds, or other obligations of the municipality or to authorize the municipality to alter the terms of any such agreements, or to impair, or to authorize the municipality to impair, the rights and remedies of any creditors of the municipality.

Creation of a debt of municipality not authorized by act.

5. Nothing in this section or in any other section of this act shall be deemed in any way to authorize any municipality to do anything in any manner or for any purpose which would result in the creation or incurring of a debt or indebtedness or the issuance of any instrument which would constitute a bond or debt within the meaning of any provision, limitation, or restriction of the constitution relating to the creation or incurring of a debt or indebtedness or the issuance of an instrument constituting a debt.

No recourse against general fund of municipality.

Section 9. **Refunding Bonds Not Debts.** 1. No recourse shall be had for the payment of the refunding bonds, or interest thereon, or any part thereof, against the general fund of any municipality, nor shall the credit

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or taxing power of any municipality be deemed to be pledged thereto.

Refunding bonds not a debt.

2. The refunding bonds, and interest thereon, shall not be a debt of the municipality, nor a charge, lien or encumbrance, legal or equitable, upon any property of the municipality, or upon any income, receipts, or revenues of the municipality other than such of the revenues of the enterprise as shall have been pledged to the payment thereof, and every refunding bond shall recite in substance that said bond, including interest thereon, is payable solely from the revenues pledged to the payment thereof and that the municipality is under no obligation to pay the same, except from said revenues.

Recital in bond.

Section 10. **Refunding Bonds Exempt From Taxation.** The refunding bonds and the income therefrom shall be exempt from taxation, except inheritance, estate and transfer taxes.

Exemption from taxation.

Section 11. **Fiscal Agent.** Any municipality shall have power in connection with the issuance of refunding bonds to appoint a fiscal agent to provide for the powers, duties and functions and compensations of such fiscal agent, to limit the liabilities of such fiscal agent to prescribe a method for the resignation, removal, merger or consolidation of such fiscal agent and the appointment of a successor fiscal agent and the transfer of rights and properties to such successor fiscal agent.

Fiscal agent.

Section 12. **Duties of Municipality and Officers.** 1. In order that the payment of the refunding bonds, and interest thereon, shall be adequately secured, any municipality issuing refunding bonds pursuant to this act and the proper officers, agent and employees thereof, are hereby directed, and it shall be the mandatory duty of such officers, agents and employees under this act, and it shall further be of the essence of the contract of such municipality with the bondholders, at all times:

Duties of municipality and officers.

(a) To pay or cause to be paid punctually the principal of every refunding bond, and the interest thereon, on the date or dates and at the place or places and in the manner and out of the funds mentioned in such refunding bonds and in the coupons thereto appertaining and in accordance with the resolution authorizing their issuance;

Punctual payment of principal and interest.

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Operation and management of enterprise.

(b) To operate the enterprise in an efficient and economical manner and to establish, levy, maintain and collect such fees, tolls, rentals, rates and other charges in connection therewith as may be necessary or proper, which said fees, tolls, rates, rentals and other charges shall be at least sufficient after making due and reasonable allowances for contingencies and for a margin of error in the estimates;

Rates.

Expenses.

Bond interest and principal.

Compliance with terms of resolution.

Other obligations.

(1) to pay all current expenses of operation, maintenance and repair of such enterprise, (2) to pay the interest on and principal of the refunding bonds as the same shall become due and payable, (3) to comply in all respects with the terms of the resolution or resolutions authorizing the issuance of refunding bonds or any other contract or agreement with the holders of the refunding bonds, and (4) to meet any other obligations of the municipality which are charges, liens, or encumbrances upon the revenues of such enterprise;

To maintain enterprise.

(c) To operate, maintain, preserve and keep, or cause to be operated, maintained, preserved and kept, the enterprise and every part and parcel thereof, in good repair, working order and condition;

To preserve security of bonds.

(d) To preserve and protect the security of the refunding bonds and the rights of the holders thereof, and to warrant and defend such rights against all claims and demands of all persons whomsoever;

To pay claims for labor, etc.

(e) To pay and discharge, or cause to be paid or discharged any and all lawful claims for labor, materials and supplies, which, if unpaid, might by law become a lien or charge upon the revenues or any part thereof, prior or superior to the lien of the refunding bonds, or which might impair the security of the refunding bonds, to the end that the priority and security of the refunding bonds shall be fully preserved and protected;

To apply revenues as provided by resolution.

(f) To hold in trust the revenues pledged to the payment of the refunding bonds for the benefit of the holders of the refunding bonds and to apply such revenues only as provided by the resolution or resolutions authorizing the issuance of the refunding bonds, or if such resolution or resolutions shall thereafter be modified in the manner provided therein or herein, only as provided in such resolution or resolutions as modified;

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(g) To keep proper books of record and accounts of the enterprise (separate from all other records and accounts) in which complete and correct entries shall be made of all transactions relating to the enterprise or any part thereof, and which, together with all other books and papers of the municipality, shall at all times be subject to the inspection of the holder or holders of not less than ten per cent of the refunding bonds then outstanding or his or their representatives duly authorized in writing.

Books of record and accounts.

2. None of the foregoing duties shall be construed to require the expenditure in any manner or for any purpose by the municipality of any funds other than revenues received or receivable from the enterprise.

Expenditure required only from revenues.

Section 13. **Additional Powers and Duties.** 1. The governing body of any municipality shall have power, in addition to the other powers conferred by this act, to insert provisions in any resolution authorizing the issuance of refunding bonds, which shall be a part of the contract with the holders of the refunding bonds, as to:

Governing body may insert certain provisions in resolution.

(a) Limitations on the purpose to which the proceeds of sale of any issue of refunding bonds, or any notes, bonds or other obligations then or thereafter to be issued to finance the improving of the enterprise, may be applied;

Limiting application of bond proceeds.

(b) Limitations on the issuance of additional refunding bonds, or additional notes, bonds or other obligations to finance the improving of the enterprise, and on the lien thereof;

Limiting issuance of additional bonds.

(c) Limitations on the right of the municipality or its governing body to restrict and regulate the use of the enterprise;

As to use of enterprise.

(d) The amount and kind of insurance to be maintained on the enterprise, and the use and disposition of insurance moneys;

As to insurance.

(e) Pledging all or any part of the revenues of the enterprise to which its right then exists or the right to which may thereafter come into existence;

Pledging present and future revenues.

(f) Covenanting against pledging all or any part of the revenues of the enterprise to which its right then exists or the rights to which may thereafter come into existence;

Covenanting against pledging revenues.

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Events of default.

(g) Events of default and terms and conditions upon which any or all of the refunding bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived;

Breach of covenant.

(h) The rights, liabilities, powers and duties arising upon the breach by it of any covenants, conditions or obligations;

Powers and duties of trustee.

(i) The vesting in a trustee or trustees the right to enforce any covenants made to secure, to pay, or in relation to the refunding bonds, as to the powers and duties of such trustee or trustees, and the limitation of liabilities thereof, and as to the terms and conditions upon which the holders of the refunding bonds or any proportion or percentage of them may enforce any covenants made under this act or duties imposed hereby;

Procedure for amending resolution by consent.

(j) A procedure by which the terms of any resolution authorizing refunding bonds, or any other contract with bondholders, including but not limited to an indenture of trust or similar instrument, may be amended or abrogated and as to the amount of refunding bonds the holders of which must consent thereto and the manner in which such consent may be given;

Execution of necessary instruments.

(k) The execution of all instruments necessary or convenient in the exercise of the powers granted by this act or in the performance of the duties of the municipality and the officers, agents and employees thereof;

Stay or extension law.

(l) Refraining from pledging or in any manner whatever claiming or taking the benefit or advantage of any stay or extension law whenever enacted, nor at any time hereafter in force, which may affect the duties or covenants of the municipality in relation to the refunding bonds, or the performance thereof, or the lien of such refunding bonds;

Purchase of outstanding notes or obligations.

(m) The purchase out of any funds available therefor, including but not limited to the proceeds of refunding bonds, of any outstanding notes, bonds or obligations, including but not limited to refunding bonds, and the price or prices at which and the manner in which such purchases may be made;

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(n) Any other acts and things as may be necessary or convenient or desirable in order to secure the refunding bonds, or as may tend to make the refunding bonds more marketable. Other acts in aid of refunding bonds.

2. Nothing in this section shall be construed to authorize any municipality to make any covenants, to perform any act or to do anything which shall require the expenditure in any manner or for any purpose by the municipality of any funds other than revenues received or receivable from the enterprise. Expenditure limited to revenues from enterprise.

Section 14. **Right to Receivership Upon Default.** Receivership.
1. In the event that the municipality shall default in the payment of the principal or interest on any of the refunding bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the municipality or the governing body or officers, agents or employees thereof shall fail or refuse to comply with the provisions of this act or shall default in any agreement made with the holders of the refunding bonds, any holder or holders of refunding bonds, or trustee therefor, shall have the right to apply in an appropriate judicial proceeding to the district court, or any court of competent jurisdiction, for the appointment of a receiver of the enterprise, whether or not all refunding bonds have been declared due and payable and whether or not such holder, or trustee therefor, is seeking or has sought to enforce any other right, or exercise any remedy in connection with such refunding bonds. Upon such application the district court may appoint, and if the application is made by the holders of twenty-five per centum in principal amount of such refunding bonds then outstanding, or any trustee for holders of such refunding bonds in such principal amount, shall appoint a receiver of the enterprise. Application for appointment of receiver of the enterprise. When court required to appoint receiver.

2. The receiver so appointed shall forthwith, directly or by his agents and attorneys, enter into and upon and take possession of the enterprise and each and every part thereof and may exclude the municipality, its governing body, officers, agents, and employees and all persons claiming under them wholly therefrom and shall have, hold, use, operate, manage and control the same and each and every part thereof, and, in the name of the municipality or otherwise, as the receiver may deem best, Powers and duties of receiver.

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and shall exercise all the rights and powers of the municipality with respect to the enterprise as the municipality itself might do. Such receiver shall maintain, restore, insure and keep insured, the enterprise, and from time to time shall make all such necessary or proper repairs as to such receiver may seem expedient and shall establish, levy, maintain and collect such fees, tolls, rentals, and other charges in connection with the enterprise as such receiver may deem necessary or proper and reasonable, and shall collect and receive all revenue and shall deposit the same in a separate account and apply such revenues so collected and received in such manner as the court shall direct.

When receiver to surrender possession of enterprise.

3. Whenever all that is due upon the refunding bonds, and interest thereon, and upon any other notes, bonds, or other obligations, and interest thereon, having a charge, lien, or encumbrance on the revenues of the enterprise and under any of the terms of any covenants or agreements with bondholders shall have been paid or deposited as provided therein, and all defaults shall have been cured and made good, the court may in its discretion, and after such notice and hearing as it deems reasonable and proper, direct the receiver to surrender possession of the enterprise to the municipality, the same right of the holders of the refunding bonds to secure the appointment of a receiver to exist upon any subsequent default as hereinabove provided.

Receiver subject to direction of court.

4. Such receiver shall in the performance of the powers hereinabove conferred upon him, act under the direction and supervision of the court making such appointment and shall at all times be subject to the orders and decrees of such court and may be removed thereby. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any functions specifically set forth herein.

Jurisdiction of district court.

Remedies of bondholders.

Section 15. **Remedies of Refunding Bondholders.** 1. Subject to any contractual limitations binding upon the holders of any issue or refunding bonds, or trustee therefor, including but not limited to the restriction of the exercise of any remedy to the specified proportion of percentage of such holders, any holder of refunding bonds, or trustee therefor, shall have the right and power,

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for the equal benefit and protection of all holders of refunding bonds similarly situated: Equal benefit.

(a) By mandamus or other suit, action or proceedings at law or in equity to enforce his rights against the municipality and its governing body and any of its officers, agents and employees and to require and compel such municipality or such governing body or any such officers, agents or employees to perform and carry out its and their duties and obligations under this act and its and their covenants and agreements with bondholders; Proceedings at law or in equity.

(b) By action or suit in equity to require the municipality and the governing body thereof to account as if they were the trustee of an express trust; Action for accounting.

(c) By action or suit in equity to enjoin any acts or things which may be unlawful or in violation of the rights of the bondholders; Injunction.

(d) Bring suit upon the refunding bonds. Suit upon bonds.

2. No remedy conferred by this act upon any holder of refunding bonds, or any trustee therefor, is intended to be exclusive of any other remedy, but each such remedy is cumulative and in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred by this act or by any other law. No waiver of any default or breach of duty or contract, whether by any holder of refunding bonds, or any trustee therefor, shall extend to or shall affect any subsequent default or breach of duty or contract or shall impair any rights or remedies thereon. No delay or omission of any bondholder or any trustee therefor to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein. Every substantive right and every remedy, conferred upon the holders of refunding bonds, may be enforced and exercised from time to time and as often as may be deemed expedient. In case any suit, action or proceeding to enforce any right or exercise any remedy shall be brought or taken and then discontinued or abandoned, or shall be determined adversely to the holder of the refunding bonds, or any trustee therefor, then and in every such case the municipality and such holder or trustee, shall be restored to their Remedies cumulative. Waiver of default. Right not impaired by delay. Repeated exercise of right. Municipality and other parties restored to former positions and rights.

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former positions and rights and remedies as if no such suit, action or proceeding had been brought or taken.

Act constitutes full authority.

Section 16. **Construction of Act.** This act constitutes full and complete authority for the issuance of refunding bonds. No procedure or proceedings, publications, notices, consents, approvals, orders, acts or things by any governing body of any municipality, or any board, officer, commission, department, agency or instrumentality of the State or any municipality shall be required to issue any refunding bonds or to do any act or perform any thing under this act, except as may be prescribed in this act. The powers conferred by this act shall be in addition and supplemental to, and not in substitution for, and the limitations imposed by this act shall not affect, the powers conferred by any other law. This act is remedial in nature and shall be liberally construed.

Powers conferred are cumulative.

Remedial in nature.

Invalidity of part not to affect validity of other parts of act.

Section 17. **Act Not Affected if in Part Unconstitutional.** If any section, clause, sentence, paragraph, part or provision of this act shall be found invalid by any court, it shall be conclusively presumed that this act would have been passed by the legislature without such invalid section, clause, sentence, paragraph, part or provision, and the act as a whole shall not be declared invalid by reason of the fact that one or more sections, clauses, sentences, paragraphs, parts or provisions may be found invalid by any court.

Effective date.

Section 18. **Time of Taking Effect.** This act shall take effect upon its passage and approval.

Approved March 15, 1937.

CHAPTER 122

An Act to Amend Section 5080 of the Revised Codes of Montana of 1935, Relating to the Liability of Cities and Towns for Injury or Damage to Person or Property Received or Suffered by Reason of Any Defect in Any Bridge, Street, Road, Sidewalk, Culvert, Park, Public Ground, Ferry-boat, or Public Works of Any Kind in Cities and Towns.

Be it enacted by the Legislative Assembly of the State of Montana:

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Amending clause.

Section 1. That Section 5080 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Cities not liable for damages in absence of actual notice of defect.

"Section 5080. Before any city or town in this State shall be liable for damages to person and/or property for, or on account of, any injury or loss alleged to have been received or suffered by reason of any defect or obstructions in any bridge, street, road, sidewalk, culvert, park, public ground, ferry-boat, or public works of any kind in said city or town, it must first be shown that said city or town had actual notice of such defect or obstruction and reasonable opportunity to repair such defect or remove such obstruction before such injury or damage was received; the city clerk must make a permanent record of all such reported defects and shall report to the city street commissioner immediately upon notice of such defect or obstruction; and the person alleged to have suffered such injury or damage, or someone in his behalf, shall give to the city or town council, commission, manager, or other governing body of such city or town, within sixty days after such injury is alleged to have been received or suffered, written notice thereof, which notice shall state the time when and the place where such injury alleged to have occurred. Provided, however, that this section shall not exempt cities and towns from liability for negligence because of failure to properly place signs, markers or signals to warn persons of excavations or other obstructions existing and caused by said city or town, upon any bridge, street, alley, road, sidewalk, pavement, culvert, park, public ground, ferry-boat or public works of any kind."

City clerk to record reported defects.

Injured person to give written notice of injury.

Proviso, as to negligence of city.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 15, 1937.

CHAPTER 123

An Act to Amend Sections 3554.14 and 3554.15 of the Revised Codes of Montana of 1935, to Reduce the Priv-

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ilege and License Tax Levied and Assessed on Crude Petroleum Produced, Saved, and Marketed or Stored Within the State of Montana, and to Fix the Dates for Statements of All Crude Petroleum Produced in Montana to Be Rendered, and to Require the Payment With Such Statements of the Tax Shown Thereby to Be Due the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 3554.14 of the Revised Codes of Montana of 1935 be, and the same is hereby, amended to read as follows:

Privilege and license tax.

Section 3554.14. There is hereby levied and assessed a privilege and license tax of one-fourth of one per cent per barrel on each and every barrel of crude petroleum produced, saved and marketed or stored within the State of Montana, during the period during which said board is in existence. Producers thereof shall pay such tax on each barrel of crude petroleum produced for themselves as well as for others including royalty holders and shall be reimbursed for such tax paid on crude oil produced for others in the same manner as they are reimbursed for net proceeds tax paid on crude petroleum produced for others as provided in Section 2091.1 of the Revised Codes of Montana of 1935.

Payable on each barrel of crude petroleum produced.

Amending clause.

Section 2. That Section 3554.15 of the Revised Codes of Montana of 1935 be, and the same is hereby, amended to read as follows:

Quarterly statement of production.

Section 3554.15. Each producer of crude petroleum in the State of Montana shall, not later than the last day of each of the calendar months of January, April, July, and October, of each and every calendar year, beginning with the month of July of the year one thousand nine hundred and thirty-seven, render a true statement to the state treasurer of the State of Montana, and a duplicate thereof to the oil conservation board of the State of Montana, duly signed and sworn to, of all crude petroleum produced by him in this State during the next preceding three calendar months, and containing such other information as the oil conservation board may require, and shall accompany such statement with the payment to the state treasurer of the assessment provided for in Section 3554.14 of the Revised Codes of Montana of 1935

Payment of assessment.

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in an amount equal to one-fourth of one cent per barrel for each barrel of crude petroleum produced by him within the State of Montana during the period covered by such statement. Any producer carrying on business at more than one place or location in this State may include all such places of business in one statement.

Amount.

More than one place of business.

Section 3. This act shall be in full force and effect on and after the first day of April of the year one thousand nine hundred and thirty-seven.

Effective date.

Approved March 15, 1937.

CHAPTER 124

An Act to Amend Section 2429.10 of the Revised Codes of Montana of 1935, Relating to Amount of Huckster's License.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 2429.10, Revised Codes of Montana, 1935, be and the same is hereby amended to read as follows:

Amending clause.

Section 2429.10. **Amount of License.** Every huckster desiring to do business in any county of this State, must, before commencing such business, pay to the county treasurer of such county, the sum of fifteen dollars ($15.00) for a license to conduct such business for a period of six months from the date such license is issued.

Amount of license.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved March 15, 1937.

CHAPTER 125

An Act to Provide for the Support of the Government of Montana for the Years 1937 and 1938.

Be it enacted by the Legislative Assembly of the State of Montana:

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Tax levies for state purposes for 1937.

Section 1. The following tax levies for state purposes are hereby made upon all property in the State of Montana subject to taxation for the year 1937, as ascertained by taking the percentage of the true and full value provided by law for purposes of taxation, to-wit:

For state general fund.

A. For the state general fund, including the levy for the issue of $4,500,000.00 state funding bonds authorized by Chapter 10 of the Session Laws of the Twenty-third Legislative Assembly of 1933, two (2) mills.

University millage fund.

B. For the university millage fund, two and one-half (2½) mills.

State educational bond sinking and interest fund.

C. For the state educational bond sinking and interest fund created under Initiative Measure 19 now comprising Sections 5606 to 5612 inclusive of the Revised Codes of Montana of 1921, ten-twelfths (10/12) of a mill on each dollar of the assessed valuation of said property.

Tax levies for state purposes for 1938.

Section 2. The following tax levies for state purposes are hereby made upon all property in the State of Montana subject to taxation for the year 1938, as ascertained by taking the percentage of the true and full value provided by law for purposes of taxation, to-wit:

For state general fund.

A. For the state general fund, including the levy for the issue of $4,500,000.00 state funding bonds authorized by Chapter 10 of the Session Laws of the Twenty-third Legislative Assembly of 1933, two (2) mills.

University millage fund.

B. For the university millage fund, two and one-half (2½) mills.

State educational bond sinking and interest fund.

C. For the state educational bond sinking and interest fund created under Initiative Measure 19 now comprising Sections 5606 to 5612 inclusive of the Revised Codes of Montana of 1921, ten-twelfths (10/12) of a mill on each dollar of the assessed valuation of said property.

Validity of act.

Section 3. If any part of this act shall be declared invalid or unconstitutional, it shall not affect the validity of any other part of this act.

Effective date.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 15, 1937.

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CHAPTER 126

An Act to Provide for the Recording of Subordination Agreements or Waivers in Favor of Subsequent Purchasers, Encumbrancers or Mortgagees in Case of Real Estate Mortgages, and for the Filing Thereof in the Case of Chattel Mortgages, and That Such Record or Such Filing, as the Case May Be, Shall Operate as Due and Legal Notice to the Mortgagor and the Mortgagee and to All Other Interested Persons, and to Provide That Any Such Subordination Agreement or Waiver Shall Be Valid and Binding When Executed by the Record Holder of the Mortgage Involved.

Be it enacted by the Legislative Assembly of the State of Montana:

Recordation of subordination agreement as regards real estate mortgage.

Section 1. That a subordination agreement or a waiver in favor of subsequent purchasers, encumbrancers or mortgagees as regards any real estate mortgage of record of the property therein included may be recorded in like manner as a real estate mortgage, and a subordination agreement or a waiver in favor of subsequent purchasers, encumbrancers or mortgagees as regards any chattel mortgage on file, or the personal property therein described, may be filed in like manner as a chattel mortgage, and such record or such filing as the case may be, shall operate as due and legal notice to the mortgagor and the mortgagee and to all other interested persons. Any such subordination agreement or waiver shall be valid and binding so far as the mortgage therein referred to or the property covered by such mortgage is concerned, when executed by the record holder of the mortgage involved.

Filing of same, as regards chattel mortgage.

Effect of.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 15, 1937.

CHAPTER 127

An Act Amending Chapter 59 of the Code of Civil Procedure of the Revised Codes of Montana, 1935, by

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Adding a New Section Relating to Exemptions of Judgment Debtors and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Chapter 59 of the code of civil procedure of the Revised Codes of Montana, 1935, be amended by adding a section to follow immediately after Section 9428 of the Revised Codes of Montana, 1935, such section to read as follows:

Additional exemption.

Section 9428.1. In addition to the property mentioned in the two immediately preceding sections, there shall be exempt to all judgment debtors who are married or who are heads of families, the following:

To osteopaths and chiropractors.

(a) To Osteopaths and Chiropractors. The instruments and equipment necessary to the exercise of his profession, with his scientific and professional library and necessary office furniture.

Repealing clause.

Section 2. That all acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. That this act shall be in full force and effect from and after its passage and approval.

Approved March 15, 1937.

CHAPTER 128

An Act Relating to the Levy of Attachment and Prescribing an Additional Method of Attaching Stocks or Shares of Any Corporation or Company When Its Officers or Agents Do Not Live or Can Not Be Found in Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Additional method for attaching corporation stocks.

Affidavit that president not in state.

Section 1. In addition to the method prescribed in paragraph 4 of Section 9262 of the revised codes of Montana, 1935, for attaching stocks or shares or interest therein of any corporation or company, if the president or other head of the same or the secretary, cashier, or other managing agent thereof does not live in Montana

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or can not be found within the said State and an affidavit is filed in the office of the clerk of the court in which the action is pending setting forth that the above named officers or managing agent of said corporation does not live or can not be found within the State the clerk of the court shall make an order directing the writ to be served upon the secretary of state of the State of Montana or in his absence from his office, upon the deputy secretary of State of Montana. When such order has been made the said writ of attachment shall be served upon the secretary of state or in his absence upon the deputy secretary of state by leaving with him a copy of said writ and a notice that the stock or interest therein of the defendant is attached in pursuant of such writ.

Service of writ upon secretary of state.

Section 2. Upon such service being so made upon the secretary of state or his deputy the said secretary of state or his deputy shall promptly mail the copy of the writ, notice and copy of said order by registered mail to the address of such corporation at its principal home office as shown by the papers on file in the office of secretary of state and shall make out and mail to the clerk of the court in which the action is pending a certificate of such mailing which shall have attached thereto the registry receipt for such letter that such attachment so made upon the secretary of state as herein provided shall be effective and the said stock or shares or the interest therein of the defendant shall be attached upon the service of the said writ as herein provided. At the time of the service of said writ there shall be paid to the secretary of state a fee of two ($2.00) dollars which shall be by him paid into the state treasury and which may be taxed as cost by the plaintiff.

Duty of secretary of state.

Fee to secretary of state.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved March 15, 1937.

CHAPTER 129

An Act to Eliminate Reckless and Irresponsible Drivers From the Highways and Relating to Financial Responsibility of Motor Vehicle Owners and Operators and Making Uniform the Laws in Relation Thereto.

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Be it enacted by the Legislative Assembly of the State of Montana:

Act supplemental to motor vehicle code.

Section 1. This act shall in no respect be considered as a repeal of any of the provisions of the state motor vehicle code or laws, but shall be construed as supplemental thereto.

License suspended for offenses.

Section 2. The motor vehicle operator's and/or chauffeur's license and all of the registration certificates of any person who shall by a final order or judgment have been convicted of or shall have pleaded guilty to or shall have forfeited any bond or collateral deposited to secure the appearance for trial of the defendant (where such forfeiture shall not have been vacated) for any of the following offenses hereafter committed, to-wit:

Driving while under influence of liquor.

Operating a motor vehicle while under the influence of intoxicating liquor or narcotic drugs in violation of Section 1746.1 of the Revised Codes of the State of Montana of 1935;

Homicide or personal injury.

Homicide arising out of the operation of a motor vehicle; Reckless driving, resulting in personal injury or damage to property;

Offenses outside of state.

An offense in any other state or in any province of the Dominion of Canada which, if committed in this State, would be in violation, as aforesaid, of any of the above specified provisions of law of this State;

shall be suspended forthwith without notice or hearing by the registrar of motor vehicles or other officer in charge of the issuance of motor vehicle operators' and/or chauffeurs' licenses and registration certificates, hereinafter called the registrar, and shall remain so suspended and shall not at any time thereafter be renewed, nor shall any such license be thereafter issued to him or any motor vehicle be thereafter registered in his name until he shall have given proof of his ability to respond in damages for any liability thereafter incurred, resulting from the ownership, maintenance, use or operation thereafter of a motor vehicle for personal injury to or death of any one person in the amount of at least five hundred dollars ($500.00), and, subject to the aforesaid limit for any one person injured or killed, of at least one thousand dollars ($1,000.00) for personal injury to or the death of two or more persons in any one accident, and for damage to property in the amount of at least two hundred and fifty dollars ($250.00) resulting from any one acci-

Showing required for renewal.

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dent. Such proof in said amounts shall be furnished for each motor vehicle registered by such person. If such person shall not be a resident of this State, the privilege of operating any motor vehicle in this State and the privilege of operation within the State of any motor vehicle owned by him shall be withdrawn, and shall remain so withdrawn, and no operator's or chauffeur's license shall be issued to him and no motor vehicle shall be registered in his name until he shall have given proof as aforesaid. It shall be the duty of the clerk of the court, or of the court where it has no clerk, in which any such judgment or order is rendered or other such action taken to forward immediately to the registrar a certified copy or transcript thereof. A certified copy or transcript of the judgment order or record of other action of the court shall be prima facie evidence of the conviction, plea or forfeiture therein stated. In the event that the person so shown to have been convicted, pleaded guilty or forfeited bond or collateral appears to be a nonresident of this State, the registrar shall transmit a copy of such certified copy or transcript, certified to by him, to the officer in charge of the issuance of motor vehicle operators' and/or chauffeurs' licenses and registration certificates of the state or province of which such person appears to be a resident.

Applicable to non-residents.

Duty of clerk of court.

Court record as prima facie evidence.

Procedure as to non-resident.

Provided, however, that if it shall be duly established to the satisfaction of the registrar and the registrar shall so find (a) that any person, whether a resident or nonresident of this State, who shall have been convicted, pleaded guilty or forfeited bail or collateral, as aforesaid, was upon the occasion of the offense upon which such conviction, plea or forfeiture was based, a chauffeur or motor vehicle operator, however designated, in the employ of the owner of the motor vehicle involved in such offense or a member of the immediate family or household of the owner of such motor vehicle, and (b) that there was not, at the time of such offense or subsequent thereto, up to the date of such finding, any motor vehicle registered in this State, (or if a nonresident, in the state of his residence) in the name of the person who has so been convicted, pleaded guilty or forfeited bail or collateral, then and in that event, if the person in whose name such motor vehicle is registered shall give proof of ability to respond in damages according to the provisions of this act, which proof the registrar shall accept, such

Chauffeur in employ of owner of vehicle.

No vehicle registered in name of convicted person.

Proof of responsibility by owner.

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chauffeur or other person, as aforesaid, shall be relieved of the necessity of giving such proof in his own behalf.

Suspension for failure to satisfy judgment.

Section 3. The operator's and/or chauffeur's license and all of the registration certificates of any person, in the event of his failure within thirty (30) days thereafter, to satisfy any judgment which shall have become final, by expiration without appeal of the time within which appeal might have been perfected or by final affirmance on appeal, rendered against him by a court of competent jurisdiction in this State or in any other state or the District of Columbia, or in any district court of the United States, or by a court of competent jurisdiction in any province of the Dominion of Canada, for damages on account of personal injury, including death, or damage to property in excess of one hundred dollars ($100.00), resulting from the ownership, maintenance, use or operation hereafter of a motor vehicle shall be forthwith suspended by the registrar upon receiving a certified copy or transcript of such final judgment from the court in which the same was rendered showing such judgment or judgments to have been still unsatisfied more than thirty (30) days after the same became final, as aforesaid, and shall remain so suspended and shall not be renewed, nor shall any license be issued to such person, nor shall any motor vehicle be thereafter registered in his name while any such judgment remains unstayed, unsatisfied and subsisting and until every such judgment is satisfied or discharged except by a discharge in bankruptcy and until the said person gives proof of his ability to respond in damages as required in Section 2 of this act, for future accidents. It shall be the duty of the clerk of the court, or of the court where it has no clerk, in which any such judgment is rendered, to forward immediately after the expiration of said thirty (30) days, as aforesaid, to the registrar a certified copy of such judgment or a transcript thereof, as aforesaid. In the event the defendant is a non-resident, it shall be the duty of the registrar to transmit to the registrar or commissioner of motor vehicles or officer in charge of the issuance of operators' permits and registration certificates of the state or province of which the defendant is a resident, a certified copy of the said judgment. If after such proof has been given, any other such judgment shall be recovered against such person for an accident occurring before such proof was given but after this act shall take effect, such license or

Not renewable until judgment is satisfied.

Duty of clerk of court.

Subsequent judgment.

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licenses and certificate or certificates shall again be and remain suspended, and no other such license or certificate shall be issued to such person while any such judgment remains unsatisfied and subsisting, as aforesaid,

Proviso.

Provided, however, anything in this act to the contrary notwithstanding, that,

Partial payment of judgments.

(1) When one hundred dollars ($100.00) has been credited upon any judgment or judgments rendered in excess of that amount for personal injury to or the death of one person as the result of any one accident; or

(2) When, subject to the limit of five hundred dollars ($500.00) for any one person so injured or killed, the sum of one thousand dollars ($1,000.00) has been credited upon any judgment or judgments rendered in excess of that amount for personal injury to or the death of more than one person as the result of any one accident; or

(3) When two hundred and fifty dollars ($250.00) has been credited upon any judgment or judgments rendered in excess of that amount for damage to property as the result of any one accident, resulting from the ownership, maintenance, use or operation of a motor vehicle, then and in such event, such payment or payments shall be deemed a satisfaction of such judgment or judgments for the purposes of this section only.

And provided further, that a judgment debtor to whom this section applies may, for the sole purpose of giving authority to the registrar to authorize the judgment debtor to operate a motor vehicle thereafter, on due notice to the judgment creditor, apply to the court in which the trial judgment was obtained for the privilege of paying such judgment in installments, and the court, in its discretion and without prejudice to any other legal remedies which the judgment creditor may have, may so order, fixing the amounts and times of payment of the installments. While the judgment debtor is not in default in payment of such installments, the registrar, upon his giving proof of ability to respond in damages for future accidents, as hereinbefore provided, may, in his discretion, restore or refrain from suspending his license and/or registration certificate or certificates; but such license and/or certificate or certificates shall

Payment of judgment in installments.

Restoration of license.

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be suspended as hereinbefore provided if and when the registrar is satisfied that the judgment debtor has failed to comply with the terms of the court order.

Non-resident owner or operator.

If any such motor vehicle owner or operator shall not be a resident of this State, the privilege of operating any motor vehicle in this State and the privilege of operation within the State of any motor vehicle owned by him shall be withdrawn while any final judgment against him as aforesaid, shall be unstayed, unsatisfied and subsisting for more than thirty (30) days, as aforesaid, and shall not be renewed, nor shall any operator's or chauffeur's license be issued to him or any motor vehicle registered in his name until every such judgment shall be stayed, satisfied or discharged as herein provided, and until such person shall have given proof of his ability to respond in damages for future accidents, as required in Section 2 of this act.

Proof of responsibility evidenced by insurance.

Section 4. Proof of ability to respond in damages, when required by this act, may be evidenced by the written certificate or certificates of any insurance carrier duly authorized to do business within the State, that it has issued to or for the benefit of the person named therein a motor vehicle liability policy or policies in the form hereinafter prescribed, which, at the date of the certificate or certificates, is or are in full force and effect, and designating therein by explicit description or by other adequate reference, all motor vehicles to which the policy or policies apply. The registrar shall not accept any certificate or certificates unless the same shall cover all motor vehicles then registered in this State in the name of the person furnishing such proof. Additional certificates, as aforesaid, shall be required as a condition precedent to the registration of any additional motor vehicle or motor vehicles in the name of such person required to furnish proof as aforesaid. Said certificate or certificates shall certify that the motor vehicle liability policies therein cited shall not be canceled or expire except as hereinafter provided. If such person be a non-resident, a certificate, as aforesaid, of an insurance carrier authorized to transact business in the state or province in which the motor vehicle or motor vehicles described in such certificate is registered, or if none be described, then in the state or province in which the insured resides, shall be accepted if such carrier shall

Requirements as to certificate.

Insurance as to non-resident.

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(a) execute a power of attorney authorizing the registrar to accept service of notice or process in any action arising out of a motor vehicle accident in this State, and (b) its governing executive authority shall duly adopt a resolution providing that its policies shall be deemed to be varied to comply with the law of this State relating to the terms of motor vehicle liability policies issued therein, and (c) agree to accept as final and binding any final judgment duly rendered in any action arising out of a motor vehicle accident in any court of competent jurisdiction in this State; provided, however, that the provisions of this section shall be operative as to such insurance carriers (organized and existing under the laws of such state or province and not licensed to transact business in this State) only to the extent and under the same terms and conditions that under the laws of such state or province where such motor vehicle is registered or in which the insured resides, like recognition, if a law of like effect is in force and effect, is granted to certificates of insurance carriers organized and existing under and by virtue of the laws of this State. If, under the laws of such state or province, in which a law of like effect is in force and effect, certificates of insurance carriers organized and existing under or by virtue of the laws of this State are not accepted, the certificates of insurance carriers of such state or province shall not be accepted under the provisions of this act.

Power of attorney to registrar.

Resolution by carrier's governing authority.

Agreement to accept judgment in court action.

Proviso, as to reciprocity of laws.

The registrar shall be notified by the insurance carrier of the cancellation or expiration of any motor vehicle liability policy certified under the provisions of the act at least ten (10) days before the effective date of such cancellation or expiration and until such notice is duly given, such policy shall continue in full force and effect.

Notice of termination of liability policy.

Such proof may be the bond of a surety company, duly authorized to transact business within the State, or a bond, with at least two (2) individual sureties, each owning real estate within this State, which real estate shall be scheduled in the bond approved by a judge of a court of record which said bond shall be conditioned for the payment of the amounts specified in Section 2 of this act; and such bond shall be filed with the registrar and shall not be cancellable except after ten (10) days' written notice to the registrar. Such bond shall constitute a lien in favor of the State upon the real estate so sched-

Surety bond.

Filing.

Cancellation.

Bond to constitute lien.

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uled of any surety, which lien shall exist in favor of any holder of a final judgment against the person who has filed such proof on account of damage to property in excess of one hundred dollars ($100.00) or injury to, including death of a person or persons resulting from the ownership, maintenance, use or operation hereafter of a motor vehicle, upon the filing of notice to that effect by the registrar in the office of the clerk of the district court of the county where such real estate shall be located, and the clerk of any such district court receiving such notice shall keep proper books for indexing such liens and all such liens shall be filed and entered therein, showing the judgment creditors, the names of the judgment debtors and bondsmen in alphabetical order, the date and amount of the judgment, and upon the satisfaction of said judgment, the date thereof.

Notice of lien.

Duty of clerk of court.

Such proof of ability to respond in damages may also be evidence presented to the registrar of a deposit by such person with the state treasurer or other proper fiscal officer of a sum of money or collateral in form satisfactory to the registrar amounting to one thousand two hundred fifty dollars ($1250.00). Subject to the approval of the registrar, the said state treasurer or other proper fiscal officer shall accept any such deposit and shall issue a receipt therefor. The registrar shall approve such deposit by or on behalf of any person except where a judgment theretofore recovered against such person shall not have been paid in full.

Deposit of money or collateral.

Receipt for deposit.

Approval of deposit.

Additional evidence of responsibility.

Additional evidence of ability to respond in damages, as required by this act, shall be furnished the registrar at any time upon his demand.

Bond or money to be held to satisfy judgment.

Section 5. A bond, money or collateral filed or deposited by or on behalf of any person under the provisions of the preceding section, shall be held by the registrar or said treasurer to satisfy, in accordance with the provisions of this act, any execution issued against such person on a judgment for damages, as aforesaid, arising out of the ownership, maintenance, use or operation of a motor vehicle as aforesaid. Money or collateral so deposited shall not be subject to attachment or execution unless such attachment or execution shall arise out of a suit for damages as aforesaid. If such judgment rendered against the principal on the surety company or real estate individual bond given under the provisions

Attachment of money deposited.

Action upon bond.

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of this act shall not be satisfied within thirty (30) days after it has become final as hereinbefore provided, the judgment creditor may, for his own use and benefit and at his sole expense, bring an action or actions in the name of the State against the company or persons executing such bond, including an action or proceeding to foreclose any lien that may exist upon the real estate of a person who has executed such bond; and any judgment debtor enforcing such lien may sell the real estate subject thereto, or so much as may be necessary to satisfy the same, under execution, in the manner provided for sale of real estate under execution.

Foreclosure of lien.

Section 6. The registrar shall upon request furnish any insurance carrier, person, or surety a certified abstract of the operating record of any person subject to the provisions of this act, which abstract shall fully designate the motor vehicles, (if any) registered in the name of such person, and if there shall be no record of any conviction of such person of a violation of any provision of any statute relating to the operating of a motor vehicle or of any injury or damage caused by such person as herein provided, the registrar shall so certify. The registrar shall collect for each such certificate the sum of one dollar.

Abstract of record of vehicle operator.

Fee of registrar.

Section 7. The registrar shall furnish any person who may have been injured in person or property by any motor vehicle, upon written request, with all information of record in his office pertaining to the evidence of the ability of any operator or owner of any motor vehicle to respond in damages.

Information as to responsibility of vehicle operator.

Section 8. Any operator or any owner, whose operator's license or certificate of registration shall have been suspended as herein provided, or whose policy of insurance or surety bond shall have been canceled or terminated, or who shall neglect to furnish additional evidence of ability to respond in damages upon the request of the registrar shall immediately return to the registrar his operator's license, certificate of registration and the number plates issued thereunder. If any person shall wilfully fail to return to the registrar the operator's or chauffeur's license, certificate or certificates of registration and the number plates issued thereunder as provided herein, the registrar shall forthwith direct any state

Operator to return suspended license, etc.

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Police officer to secure possession thereof.

policeman or other police officer to secure possession thereof and to return the same to the office of the registrar. Any person wilfully failing to return such operator's or chauffeur's license or such certificate or certificates and number plates shall be guilty of a misdemeanor and shall be fined not less than one hundred dollars ($100.00) nor more than two hundred fifty dollars ($250.00), and such penalty shall be in addition to any penalty imposed for any violation of any of the provisions of Section 2 of this act. The amount of such fine shall be paid in the manner provided for the payment of fines for violations of the motor vehicle laws.

Penalty.

Manner of payment.

Requirements as to return of bond, insurance, etc.

Section 9. The registrar shall cancel such bond or return such proof of insurance, or the said treasurer shall with the consent of the registrar, return such money or collateral to the person furnishing the same at any time after three years shall have elapsed since the filing of such bond or proof or the making of such deposit, provided that during the three years' period immediately preceding such person shall not have been convicted of, pleaded guilty to or forfeited bond or collateral given for any of the offenses specified in Section 2 of this act, and provided further that no suit or judgment against him or damages as aforesaid arising from the ownership, maintenance, use or operation hereafter of a motor vehicle shall then be pending or outstanding and unstayed or unsatisfied, as aforesaid; and the affidavit of such person, showing fulfillment of these requirements shall be sufficient proof thereof in the absence of evidence to the contrary before the registrar. The registrar shall direct the return of any money or collateral to the person entitled thereto, at any time upon the acceptance and substitution by or on behalf of the person required to furnish the same, of other evidence of such person's ability to respond in damages, or, at any time after three years from the expiration of the latest registration or license issued to such person, or at any time in the event of the death or permanent incapacity of such person to own and/or operate a motor vehicle, or upon other good cause shown therefor, provided no written notice shall have been filed with the registrar stating that a suit for damages, as aforesaid arising out of the ownership, maintenance, use or operation of a motor vehicle, as aforesaid, has been brought against such person, and upon the filing by such person with the registrar of an affi-

Affidavit as to fulfillment of requirements.

Return of money or collateral.

Substitution of other proof of responsibility.

Other conditions warranting return of money or collateral.

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davit that he has abandoned his residence in this State or that he has made a bona fide sale of all motor vehicles owned by him and does not intend to own or operate any motor vehicle in this State for a period of one or more years.

Transfer of suspended certificate of registration.

Section 10. If an owner's certificate of registration has been suspended under the provisions of this act, such certificate shall not be transferred nor the motor vehicle in respect of which such certificate was issued, registered in another name, where the registrar has reasonable grounds to believe that such transfer or registration is proposed for the purpose or will have the effect of defeating the purpose of this act. Provided, however, that such transfer of registration shall be permitted upon the furnishing of proof of financial responsibility to the registrar by such transferee whenever the registrar shall deem it necessary in furtherance of the purposes of this section.

Proof by transferee.

Act not applicable to insurance against liability.

Section 11. Nothing in this act contained shall be held to apply to or affect policies of automobile insurance against liability which may now or hereafter be required by special act, and such policies, if endorsed to conform to the requirements of this act shall be accepted as proof of financial responsibility when required under this act; nor shall anything in this act contained be held to apply to or affect policies insuring solely the insured named in the policy against liability resulting from the maintenance, operation or use by other persons in the insured's employ or in his behalf of motor vehicles not owned by the insured.

Nor to insurance against liability for operation by other persons.

Section 12. Any person who shall forge, or without authority, sign any evidence of ability to respond in damages as required by the registrar in the administration of this act and any nonresident who shall operate a motor vehicle in this State from whom the privilege of operating any motor vehicle has been withdrawn as provided in Section 3 hereof, shall be fined not less than one hundred dollars ($100.00) nor more than two hundred fifty dollars ($250.00) or imprisoned not more than thirty days or both.

Penalties.

"Motor vehicle liability policy" defined.

Section 13. "Motor vehicle liability policy", as used in this act, shall be taken to mean a policy of liability insurance issued by an insurance carrier authorized to

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transact business in this State or issued by an insurance carrier authorized to transact business in the state or province in which the motor vehicle or motor vehicles therein described is registered, or if none be described, then in the state in which the insured resides to the person therein named as insured, which policy shall either (1) designate, by explicit description or other adequate reference, all motor vehicles with respect to which coverage is intended to be granted by said policy, and shall insure the insured named therein and any other person using or responsible for the use of any such motor vehicle with the consent, express or implied, of such insured, against loss from the liability imposed by law upon such insured or upon such other person for injury to or death of any person, other than such insured and such person or persons as may be covered, as respects such injury or death by any workmen's compensation law, and/or for damage to property, except property of others in charge of the insured or of his employees or other agents growing out of the ownership, maintenance, use or operation of any such motor vehicle within the continental limits of the United States of America or the Dominion of Canada; or which policy shall, in the alternative, (2) insure the person therein named as insured against loss from the liability imposed by law upon such insured for injury to or death of any person, other than such insured and such person or persons as may be covered as respects such injury or death by any workmen's compensation law, and/or for damage to property, except property of others in charge of the insured or of his employees or other agents growing out of the maintenance, operation or use by such insured of any motor vehicle, except a motor vehicle registered in the name of such insured, and occurring while such insured is personally in control, as driver or occupant, of such motor vehicle within the continental limits of the United States of America or the Dominion of Canada, in either case to the amount or limit of $500.00, exclusive of interest and costs, on account of injury to or death of any one person, and subject to the same limit as respects injury to or death of any one person, of $1,000.00, exclusive of interest and costs, on account of any one accident resulting in injury to or death of more than one person; and of $250.00, for damage to property of others, as herein provided, resulting from any one accident; or a binder pending

Shall designate vehicles covered.

Insurance provided by policy.

Alternative provisions.

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the issuance of any such policy, or an endorsement to an existing policy both as hereinafter provided; provided, however, that this section shall not be construed as preventing an insurance carrier from granting in a "motor vehicle liability policy" any lawful coverage in excess of or in addition to the coverage herein provided for or from embodying in such policy any agreements, provisions or stipulations not contrary to the provisions of this act and not otherwise contrary to law. And provided further, that separate concurrent policies, whether issued by one or several carriers, covering, respectively, (a) personal injury or death, as aforesaid, and (b) property damage, as aforesaid, shall be termed "a motor vehicle liability policy", within the meaning of this act.

Separate concurrent policies.

Except as in Section 12 of this act provided, no motor vehicle liability policy shall be issued or delivered in this State until a copy of the form of policy shall have been on file with the commissioner of insurance for at least thirty (30) days, unless sooner approved in writing by such commissioner, nor if within said period of thirty (30) days such commissioner shall have notified the carrier in writing that in his opinion, specifying the reasons therefor, the form of policy does not comply with the provisions of this act. The commissioner of insurance shall approve any form of policy which specifies the name, address and business if any of the insured, the coverage afforded by the policy, the premium charged therefor, the policy period, and the limits of liability, and contains an agreement that the insurance thereunder is provided in accordance with the coverage defined in this section, as respects personal injury and death or property damage or both, and is subject to all the provisions of this act.

Conditions precedent to issuance of policy.

Requirements for approval.

Every such motor vehicle liability policy shall be subject to the following provisions, whether or not contained therein:

Provisions legally implied.

(a) The liability of the insurance carrier under a motor vehicle liability policy shall become absolute whenever loss or damage covered by such policy occurs, and the satisfaction by the insured of a final judgment for such loss or damage shall not be a condition precedent to the right or obligation of the carrier to make payment

Liability of carrier.

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Proviso, as to settlement of claim.

on account of such loss or damage; provided always, that the insurance carrier shall have the right to settle any claim covered by the policy, and if such settlement is made in good faith, the amount thereof shall be deductible from the limits of liability specified in the policy. No such policy shall be cancelled or annulled as respects any loss or damage, by any agreement between the carrier and the insured after the said insured has become responsible for such loss or damage, and any such cancellation or annulment shall be void.

Cancellation after loss, by agreement.

Reimbursement of carrier when breach of terms involved.

The policy may provide that the insured, or any other person covered by the policy shall reimburse the insurance carrier for payments made on account of any loss or damage claim or suit involving a breach of the terms, provisions or conditions of the policy; and further, if the policy shall provide for limits in excess of the limits specified in this section, the insurance carrier may plead against any plaintiff, with respect to the amount of such excess limits of liability, any defenses which it may be entitled to plead against the insured, and any such policy may further provide for the prorating of the insurance thereunder with other applicable valid and collectible insurance.

Defenses, as to excess liability.

What constitutes the contract.

(b) The policy, the written application therefor, if any, and any rider or endorsement which shall not conflict with the provisions of this act shall constitute the entire contract between the parties.

Delivery or filing of certificate.

(c) The insurance carrier shall, upon the request of the insured, deliver to the insured for filing, or at the request of the insured shall file direct, with the registrar of motor vehicles an appropriate certificate in conformity with the provisions of Section 5 of this act.

"Binder."

Endorsement.

(d) Any carrier authorized to issue motor vehicle liability policies may, pending the issue of such a policy, execute an agreement, to be known as a "binder"; or may, in lieu of such a policy, issue an endorsement to an existing policy. Every such binder or endorsement shall be subject to the provisions of this section and shall be construed to provide indemnity or insurance in like manner and to the same extent as a motor vehicle liability policy.

Meaning of words.

Section 14. The following words, as used in this act, shall have the following meanings:

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(a) The singular shall include the plural; the masculine shall include the feminine and neuter, as requisite. Number and gender.

(b) "Person" shall include individuals, partnerships, corporations, receivers, referees, trustees, executors and administrators; and shall also include the owner of any motor vehicle as requisite; but shall not include the State or any political subdivision thereof. "Person."

(c) "Motor vehicle" shall include trailers, motorcycles and tractors. "Motor vehicle."

(d) "Province" shall mean any province of the Dominion of Canada. "Province."

Section 15. The registrar shall make rules and regulations necessary for the administration of this act. Registrar to make rules.

Section 16. Nothing herein shall be construed as preventing the plaintiff in any action at law from relying for security upon the other processes provided by law. Other processes.

Section 17. If any part, subdivision or section of this act shall be deemed unconstitutional, the validity of its remaining provisions shall not be affected thereby. Validity of act.

Section 18. This act shall take effect the 1st day of May, A. D., 1937. Effective date.

Approved March 15, 1937.

CHAPTER 130

An Act to Amend Section 1999 of the Revised Codes of the State of Montana, 1935, Relating to the Classification of Property for Taxation.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1999 of the Revised Codes of the State of Montana, 1935, be, and the same is hereby amended to read as follows: Amending clause.

"Section 1999. **Classification of Property for Taxation.** For the purpose of taxation the taxable property in this State shall be classified as follows: Classification for taxation.

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Class one

Net proceeds of mines.

Class One. The annual net proceeds of all mines and mining claims, after deducting only the expenses specified and allowed by Section 2565 of the Revised Codes of Montana (2090); also where the right to enter upon land to explore or prospect or dig for oil, gas, coal, or mineral is reserved in land by any person or corporation, the surface title to which has passed to another, the assessor and the state and county boards of equalization shall determine the value of the right to enter upon said tract of land for the purpose of digging, exploring, or prospecting for gas, coal, oil, or minerals, and the same shall be placed in this classification for the purpose of taxation.

Right of exploration or prospecting.

Class two

Household goods.

Class Two. All household goods and furniture, including clocks, musical instruments, sewing machines, wearing apparel of members of the family, and all personal property actually used by the owner for personal and domestic purposes, or for the furnishing or equipment of the family residence; all agricultural and other tools, implements and machinery, gas and other engines and boilers, threshing machines and outfits used therewith, automobiles, motor trucks and other power-driven cars, vehicles of all kinds, boats and all water craft, harness, saddlery and robes.

Tools and machinery.

Class three.

Livestock, merchandise, etc.

Class Three. Livestock, poultry and all agricultural products; stocks of merchandise of all sorts; together with furniture and fixtures used therewith; and all office and hotel furniture and fixtures.

Class four.

Land, etc.

Class Four. All land, town and city lots, with improvements, manufacturing and mining machinery, fixtures and supplies, except as otherwise provided by the constitution of Montana.

Class five.

Moneys and credits.

Class Five. All moneys and credits, secured or unsecured, including all state, county, school district and other municipal bonds, warrants and securities without any deduction or offset; provided, however, that the terms, moneys and credits as herein used shall not embrace the moneyed capital employed in the banking business by any banking corporation or individual in this State.

Poles and lines of rural electrification associations.

Also all poles, lines and other property used and owned by cooperative rural electrical associations organized under the laws of Montana, which rural electrification lines are or have been constructed in whole or in part in cooperation with and from funds furnished by and

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from the rural electrification authority of the United States.

Class six. Bank stock.

Class Six. The shares of stock of national banking associations and the moneyed capital employed in conducting a banking business by any other banking corporation, association or individual in this State. Such money capital to be ascertained by deducting from the moneys and credits of such banking corporation, association, or individual, the amount of the deposits and any indebtedness representing money borrowed for use in said business, and the value of the shares of any national banking association, to be ascertained by deducting the value of all real estate of such association.

Class seven.

Class Seven. All property not included in the six preceding classes.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 15, 1937.

CHAPTER 131

An Act to Amend Section 6014.23 of the Revised Codes of Montana of 1935, Relating to Changing the Number of Directors of State Banks and Trust Companies and Providing the Method and Procedure for Making Such Change.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 6014.23 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Changing the number of directors.

"Section 6014.23. Any state bank or trust company may increase or diminish the number of its directors by amending its articles of incorporation at any regular annual meeting or at any special meeting called and noticed for that purpose, of the stockholders of the bank or trust company, provided that the number of directors

Limitation.

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shall not at any time be less than three or more than eleven.

Notice of special meeting of stockholders.

Whenever any bank or trust company shall decide to call a special meeting of the stockholders for the purpose of amending its articles of incorporation relative to the number of directors, written or printed notice of such meeting must be deposited in the post office addressed to each stockholder of record entitled to vote at such meeting under the articles of incorporation or amendments thereto, and the laws and constitution of Montana, at his last known place of residence at least ten days previous to the date set for the holding of such meeting, and in addition, said notice must be published once a week for two consecutive weeks in a newspaper published in the county wherein the principal place of business of such corporation is situated. If no newspaper is published in the county it shall not be necessary to publish said notice; provided, however, that the matter of amending the articles of incorporation to change the number of directors may be submitted to and acted upon at any annual meeting of the stockholders without special notice thereof.

Proviso, as to annual meeting.

Vote required.

If at the time and place specified in the notice of such special meeting or at the annual meeting of the stockholders, stockholders representing two-thirds of all the shares of stock of the corporation shall appear in person or by proxy and vote in favor of such amendment, a certificate of the proceedings showing a compliance of the provisions of this act and the number to which the board of directors has been increased or diminished, shall be prepared, certified and sworn to and filed with the superintendent of banks, who shall within thirty days after the receipt thereof either approve or reject the amendment. The action of the superintendent of banks on said amendment shall be final. If he approves the same, he shall notify the bank, whereupon the certificate with the superintendent's approval attached thereto shall be filed in the office of the county clerk and recorder of the county wherein the bank is situated, and a certified copy thereof shall be filed in the office of the secretary of state. Upon the filing of such certified copy with the secretary of state, the amendment shall become effective."

Certificate of proceedings.

Approval by superintendent of banks.

Approved certificate filed in office of county clerk.

Copy in office of secretary of state.

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Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved March 15, 1937.

CHAPTER 132

An Act to Amend Section 2214.2 of the Revised Codes of Montana, 1935, Relating to Legalizing and Validating Tax Deeds Heretofore Issued Notwithstanding Any Error in the Form, Substance or Amounts Stated in Notice of Application for Tax Deed Unless the Amount Actually Due for Taxes, Interest and Penalty Has Been Tendered to the Holder of the Tax Deed or County Treasurer Before the Approval of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 2214.2 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows: Amending clause.

"Section 2214.2. **Validation of Tax Deeds.** That any tax deed heretofore issued in this State shall not be held invalid by reason of any defect in the form, substance or amounts stated to be due in the notice of application for tax deed and all tax deeds heretofore issued are legalized and declared to be valid and legal regardless of any error, defect, omission, irregularity or failure to correctly state the amount due in the notice of application for tax deed, provided that this act shall not apply to any case where, prior to the passage and approval of this act, the owner of land or party entitled to redeem shall pay or tender to the owner or holder of the tax deed or the county treasurer of the county wherein the land described in said tax deed is situated, the amount actually due for taxes, penalty and interest at the time when said money is so tendered." Validation of tax deeds. Proviso, as to prior tender of amount due.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

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Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 15, 1937.

CHAPTER 133

An Act to Amend Section 3324 and 3327 of the Revised Codes of Montana of 1935, Relating to Inspection of Livestock on Removal From County to County and Amending Chapter 288 of the Political Code of the Revised Codes of Montana of 1935, by Adding a New Section to Be Known as Section 3326.1 Relating to Fees for Inspection of Livestock.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 3324 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Inspection of livestock upon removal from one county to another.

"Section 3324. **Inspection of Livestock.** From and after the passage of this act, it shall be the duty of any and all persons, associations or corporations removing or taking any cow, ox, bull, stag, heifer, steer, calf, horse, mule, mare, colt, foal, or filly from one county to another to cause the same to be inspected at point of loading for brands, by a state stock inspector, and no railroad company, other carrier or person shall accept such livestock for shipment, unless the shipper shall produce a certificate of their inspection for brands as herein required: (provided, however, that the livestock commission may in its discretion authorize said shipments to be made without said inspection, in the event there is an inspection made at destination by a regularly employed stock inspector; and, provided, further, that the provisions of this act shall not apply to the said stock when driven by the owner from one county to another for the purpose of pasturing, feeding, or changing the range thereof, nor to any stock so removed or taken by any person, association, or corporation, when such stock is used in the ordinary conduct of his or its business, and such person, association, or corporation has been the owner of said stock to be removed for at least three months.)

Proviso, as to inspection at destination.

Proviso, as to stock driven by owner.

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If shipment is made other than by railroad, the person receiving said inspection certificate must retain the same until the animals are sold or delivered, after which it shall be forwarded to the livestock commission with a verified statement attached thereto, showing the name and address of the person, firm or corporation, to whom the animals were sold or delivered." Inspection certificate.

Section 2. That Chapter 288 of the political code of the Revised Codes of Montana of 1935, be, and the same is hereby amended by adding a new section to be known as Section 3326.1 to read as follows: Amending clause.

"Section 3326.1. **Fees for Inspection.** For the service of inspection herein provided for, the officer making such inspections shall receive twenty-five cents per head for the inspection of twelve head or less, or three dollars per day for the inspection of more than twelve head, and shall receive in addition thereto his necessary actual expenses, to be paid by the person for whom the inspection is made." Fees for inspection.

Section 3. That Section 3327 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows: Amending clause.

"Section 3327. **Penalty for Violation of Act.** Any person removing or attempting to remove any livestock of the kind named in Section 3324 of this code, without first having received the certificate of inspection and removal herein provided for, and any railroad, other carrier or person accepting for shipment any such livestock, without compelling the shipper to first give satisfactory evidence of his having received an inspection and removal certificate as herein provided, and any person refusing to exhibit such certificate upon proper demand, and any person who shall load any of such stock for shipping and consign same to any point where the livestock commission maintains a stock inspector, and who shall then reconsign them en route to any other points, so as to avoid inspection at point of shipment, and also the official inspection at the cities heretofore mentioned where such inspection is maintained, shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined in a sum of not less than fifty dollars ($50.00), nor more than five hundred dollars ($500.00), or by imprisonment in the county jail for a period of not Penalty for violation of act.

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Disposition of fines.

more than six months, or shall be punished by both such fine and imprisonment. All fines assessed and collected under the provisions of this act, fifty (50%) per cent thereof shall be turned into the state treasury, and placed to the credit of the livestock commission fund, and fifty (50%) per cent to the credit of the county in which the livestock shipment originated or from which the livestock were taken, except, that all fines collected where arrest is made by highway patrolmen, or upon information furnished by highway patrolmen, in which event fifty (50%) per cent of such fines be deposited to the credit of the general fund of the county from which the livestock shipment originated or from which the livestock were taken, and the other fifty (50%) per cent be paid into the state treasury to be placed to the credit of the highway patrol revolving fund."

Validity.

Section 4. **Validity.** If any section or provision of this act shall be adjudged to be invalid, such adjudication shall not affect other sections or provisions thereof, but they shall be of the same force and effect as if enacted separately.

Repealing clause.

Section 5. All acts or parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 6. This act shall be in full force and effect from and after its passage and approval.

Approved March 16, 1937.

CHAPTER 134

An Act to Provide for the Conservation, Protection, Improvement and Profitable Use of the Agricultural Resources of the State of Montana; to Provide for the Cooperation and Coordination by the State and the Governmental Units of the United States; Pursuant to the Provisions of an 'Act of the Congress of the United States Known as the Soil Conservation and Domestic Allotment Act'; to Assent to and Accept the Provisions of Said Act; to Create, Designate, Authorize and Constitute the Montana Agricultural Conservation Board as the State Agency of Montana to Formulate, Submit to the Secretary of Agriculture of the United States

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or Other Designated Federal Agency and to Aid, Carry Out and Administer State-wide Plans to Effectuate the Object, Purposes and Benefits of the Provisions of This Act and to Create and Define the Powers and Duties of the Said Montana Agricultural Conservation Board as Such State Agency.

Be it enacted by the Legislative Assembly of the State of Montana:

Short title.

Section 1. This act may be known and cited as the Montana Agricultural Conservation Act.

Declaration of public policy.

Section 2. It is hereby recognized and declared: That the soil resources and fertility of the land of this State and the economic use thereof; the prosperity of the farming industry are matters of public interest; that the public welfare has been impaired by destruction of its soil fertility by reason of wasteful exploitation and unscientific use of soil resources and by wasteful use of the waters and water courses of the State, thus decreasing the purchasing power and the net income of the agricultural industry; that the said evils are interrelated with similar conditions existent in other states, all of which conditions require action by this State in cooperation with governmental agencies of the United States and of other states in order to secure the aid and assistance of such governmental agencies in pursuance of the soil conservation and domestic allotment act or acts amendatory thereto, calculated to remedy existing conditions and to advance the public welfare of this State.

Acceptance of acts of congress.

Section 3. In order to effectuate and carry out the declared policy of this act and to enable this State to avail itself of the provisions of the acts of congress, to cooperate with the president of the United States, any department, board or agency thereof; by aiding in the preservation and improvement of soil fertility, the economic use and conservation of land by eliminating the wasteful and unscientific use of the soil resources, against the results of soil erosion; in the re-establishment and maintenance of the purchasing power of persons engaged in pursuit of the agricultural industry, the State of Montana hereby assents to and accepts the provisions of the acts of congress and grants for such objects and adopts the policy and purpose of cooperating with the federal government and agencies of other states in the

Policy and purpose.

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accomplishment of the purposes specified in any act of congress subject however to the following limitations:

To assist voluntary action.

(1) The powers conferred in this act shall be used to assist voluntary action calculated to effectuate such purposes.

Not to discourage production.

(2) Such powers shall not be used to discourage the production of supplies of foods and fibers in this State sufficient when taken together with the production thereof in all other states of the United States to maintain normal domestic human consumption as determined by the secretary of agriculture of the United States from the records of consumption in the years 1920 to 1929, inclusive, taking into consideration increased population, quantities of any commodities that were forced into domestic consumption by a declining in exports of particular commodities, and the quantities of substitutes available for domestic consumption within any general class of food commodities.

National supply.

(3) In carrying out the purposes specified in this section due regard shall be given to the maintenance of a continuous and stable national supply of agricultural commodities adequate to meet consumer demand at prices fair to both producers and consumers.

Definitions.

"Person."

Section 4. **Definitions.** (a) The term "person" as used in this act, unless the context otherwise requires, includes an individual corporation, partnership, firm, business trust, joint stock company, association, syndicate, group, pool, joint venture, and any other unincorporated association or group.

"Other states."

(b) The expression "other states of the United States" as used in this act shall include Alaska, Hawaii, and Puerto Rico.

"State agricultural districts."

(c) The term "state agricultural districts" shall mean such districts as herein designated including the various counties of the State.

County associations.

(d) The term "county associations" shall mean the representative association of the several community groups of the several community districts of such county.

Section 5. **Establishment of Montana Agricultural Conservation Board.**

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Establishment of Montana agricultural conservation board.

(a) There is hereby established a board of seven members which shall be known as the Montana agricultural conservation board and which shall be referred to hereinafter as the "state board".

"Producer members."

(b) Six members of the state board shall be persons experienced and actually engaged in the production of agricultural commodities, selected as provided in Section 9, and shall be referred to hereinafter as "producer member".

Eligibility.

No person shall be eligible for appointment as a producer member of the state board unless he is of legal age, a citizen of the State, a resident of the district which he represents and a producer of the commodity for which his district is hereinafter designated and who shall have been duly recommended to the governor for such membership by the chairman of county committees of the several counties which comprise his district as provided in Section 9; nor shall any person be appointed as a producer member if he is a resident in the same state agricultural district established pursuant to Section 7 hereof, as any producer member whose term includes any part of the term of such person.

One member to be recommended by state agricultural college.

(c) One member of the state board shall be appointed by the governor from two nominees of the state agricultural college recommended to him by the president of the state agricultural college.

State agency.

Section 6. **Designation of State Board as State Agency.** The state board is hereby designated and authorized as the state agency of this State to carry out the policy and purposes of this act and to formulate and administer state plans pursuant to the terms of this act.

Agricultural districts.

Section 7. **Agricultural Districts.** The agricultural districts of the State shall be constituted as follows:

Counties in number 1.

District No. 1 shall comprise the counties of Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Powell, Deer Lodge, Granite and Ravalli, with the meeting center thereof at the City of Missoula. The board member therefrom shall be designated as the diversified farming representative.

Diversified farming representative.

Number 2.

District No. 2 shall comprise the counties of Glacier, Pondera, Teton, Cascade, Toole, Liberty, Hill, Chouteau,

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Grain producing representative.

Blaine and Phillips, with the meeting center thereof at the City of Havre. The board member therefrom shall be designated as a grain producing representative.

Number 3.

Grain producing representative.

District No. 3 shall comprise the counties of Valley, Daniels, Sheridan, Roosevelt, McCone, Richland, Dawson, Prairie, Wibaux and Fallon, with the meeting center thereof at the city of Culbertson. The board member therefrom shall be designated as the grain producing representative.

Number 4.

Sheep producing representative.

District No. 4 shall comprise the counties of Lewis and Clark, Jefferson, Silver Bow, Beaverhead, Madison, Gallatin, Broadwater and Meagher, with the meeting center thereof at the city of Bozeman. The board member therefrom shall be designated as the sheep producing representative.

Number 5.

Grain producing representative.

District No. 5 shall comprise the counties of Judith Basin, Fergus, Wheatland, Golden Valley, Musselshell, Yellowstone, Stillwater, Sweet Grass, Park and Carbon with the meeting center thereof at the City of Billings. The board member therefrom shall be designated as a grain producing representative.

Number 6.

Cattle producing representative.

District No. 6 shall comprise the counties of Petroleum, Garfield, Rosebud, Custer, Treasure, Big Horn, Powder River and Carter with the meeting center thereof at the City of Miles City. The board member therefrom shall be designated as the cattle producing representative.

Change of boundaries.

The state board may modify, revise or change the boundaries and center meeting place of such state agricultural districts whenever it deems such revision, modification or change is necessary either to cause such districts to conform to said standards or to provide for the more substantial or more efficient accomplishment of the purposes of this act, provided that such modification, change, or revision be first approved by the particular district or districts affected thereby.

Section 8. **Community and County Committees.** As soon as practicable after its organization, the state board shall by rules and regulations provide:

Community association.

(1) For the organization within each community of a voluntary association in which all agricultural producers who are citizens of this State and residents in

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such community shall be entitled to participation; for the selection by each such association of a community committee composed of three members of such association; and for the selection of a chairman of each such community committee.

Committee.

(2) The chairmen of the several community districts shall constitute the executive board of the county association and shall select from their own members a president, vice-president and a third member who shall constitute the county committee.

Executive board of county association.

Section 9. **Appointment of Members of the State Board.**

(a) Within thirty (30) days after the effective date of this act, the governor shall advise the several county chairmen of the State, to convene in their respective district meeting centers, for the purpose of submitting in writing the names of two qualified representative persons as herein provided from whom the governor shall, at as early date as consistent, select one member to represent each of the state districts as herein provided. The term of such district representative member shall be as follows: Members of odd numbered districts for a term ending on the 31st of December of the year succeeding the date of their appointment; members of the even numbered districts for a term ending on the 31st of December of the current year of the date of their appointment.

Appointment of state board member from each district.

Term of office.

(b) On the second Monday of October of each succeeding calendar year the chairmen of the county committees of the various state agricultural districts shall convene at their respective state district meeting center for the purpose of recommending to the governor in writing two persons, eligible for appointment under the provisions of this act as a producer member of the state committee to succeed the member whose term expires at the end of the year then current. Prior to December 31st of each such year the governor shall appoint from among the persons so recommended one producer member of the state board for a term of two years commencing January 1st of the next succeeding year and until his successor is appointed and qualified.

Recommendations for appointment of producer member.

(c) If a vacancy occurs in the office of any producer member of the state board, the chairmen of the county committees of the state agricultural district so affected

Vacancies.

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shall, within thirty (30) days after the occurrence of such vacancy, recommend to the governor in writing two persons eligible under the provisions of this act for appointment to fill such vacancy for the remainder of the unexpired term. Within thirty (30) days after the receipt of such recommendation, the governor shall appoint one of the persons so recommended as a member of the state committee for the unexpired term.

Provisions of section as to time.

(d) The provisions of this section, with respect to the time within which recommendations or appointments are to be made, shall be construed as directory and not mandatory, and no appointment made hereunder shall be held invalid by reason of being made after the time prescribed herein or because any recommendation was made in connection therewith after the time provided herein.

Section 10. **Formulation and Administration of State Agricultural Plans.**

State agricultural plans.

(a) The state board is authorized and directed to formulate for each calendar year, and to submit to the secretary of agriculture of the United States for and in the name of this State, a state plan for carrying out the purpose of this act during such calendar year. In formulating the provisions of such state agricultural plans of the state committee shall consult with the several county agricultural conservation associations and such other agencies of this State as may be proper and qualified to assist therein.

Modification of plan.

(b) The state board is authorized to modify or revise any such agricultural plan in whatever manner, consistent with the terms of this act, it finds necessary in order to provide for more substantial furtherance of the accomplishment of the purposes of this act.

Participation by county committee.

(c) Each such agricultural plan shall provide for such participation in its administration by such voluntary county and community committees, or associations of agricultural producers, organized for such purposes, as the state board determines to be necessary or proper for the effective administration of the agricultural plan.

Scope of agricultural plan.

(d) Each such agricultural plan shall provide, through agreements, with agricultural producers or through other voluntary methods, for such adjustments in the utiliza-

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tion of land, in farming practices, and in the acreage or in the production for market, or both, of agricultural commodities, as the state committee determines to be calculated to effectuate as substantial accomplishment of the purposes of this act, as may reasonably be achieved through action of this State, and for payments to agricultural producers in connection with such agreements or methods, in such amounts as the state committee determines to be fair and reasonable and calculated to promote such accomplishment of the purposes of this act without depriving such producers of a voluntary and uncoerced choice of action.

Educational programs.

(e) Any such agricultural plan shall provide for such educational programs, with the assistance of the state agricultural college and others, as the state board determines to be necessary or proper to promote the more substantial accomplishment of the purposes of this act.

Estimate of expenditures necessary.

(f) Each such agricultural plan shall contain an estimate of expenditures necessary to carry out such agricultural plan together with a statement of such amount as the state board determines to be necessary to be paid by the secretary of agriculture of the United States as a grant in aid of such agricultural plan under Section 7 of the soil conservation and domestic allotment act, in order to provide for the effective carrying out of such agricultural plan, and shall designate the amount and due date of each installment of such grant, the period to which each such installment relates, and the amount determined by the state committee to be necessary for carrying out such agricultural plan during such period.

Investigations.

(g) The state board shall provide for such investigations as it finds to be necessary for the formulation and administration of such agricultural plans.

Section 11. **Receipt and Disbursement of Funds.**

State treasurer to receive grants.

(a) The state treasurer is hereby authorized and empowered to receive on behalf of this State all grants of money or other aid made available from any source to assist the State in carrying out the policy and purposes of this act. All such money or other aid, together with any moneys appropriated or other provision made by this State for such purpose, shall be forthwith available to the state board as the agency of the state subject,

Money for administering act.

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in the case of any funds or other aid received upon conditions, to the conditions upon which such funds or other aid shall have been received, for the purpose of administering this act and may be expended by the state board in carrying out the provisions of this act. Such fund so received by the state treasurer shall be deposited in a fund designated the "state agricultural conservation fund" and shall be subject to withdrawal for the purpose of carrying out the provisions of this act, by the state agricultural conservation board in the manner and form as provided by the agricultural department of the United States or its duly authorized agency.

State agricultural conservation fund.

(b) Subject to any conditions upon which any such money or other aid is made available to the State and to the terms of any applicable agricultural plan made effective pursuant to this act, such expenditures may include, but need not be limited to, expenditures for administrative expenses, equipment, cost of research and investigation, cost of educational activities, reimbursement to other state agencies or to voluntary community committees or county associations of agricultural producers for costs to such agencies, committees, or associations of assistance in the administration of this act, requested in writing by the state board and rendered to the state board, payments to agricultural producers provided for in any agricultural plan made effective pursuant to this act, salaries of employees, and all other expenditures requisite to carrying out the policy and purposes of this act, including compensation of ten ($10.00) dollars per diem for the members of said state board when engaged upon their official business in performance of their duties under this act and including traveling expenses of five (5c) cents per mile of the members of said state board and the employees of said state board in connection with their said duties; provided, that no member of the state board shall be entitled to receive compensation for more than ninety (90) days' service in any one calendar year.

Expenditures authorized.

Compensation of members of state board.

Limitation of per diem.

(c) The state board shall provide for the keeping of full and accurate accounts, showing all receipts and expenditures of moneys, securities, or other property received, held, or expended under the provisions of this act and shall provide for the auditing of all such accounts and for the execution of surety bonds for all employees.

Accounts.

Bonds of employees.

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entrusted with moneys or securities under the provisions of this act.

Section 12. **Additional Powers and Duties of the State Committee.**

Executive secretary of board.

(a) The state board shall employ an executive secretary who shall be in charge of the office of the state board and shall perform dual duties as are directed by the board. Such employment of the executive secretary shall be at the pleasure of the board, and shall be a person other than a member of said board. The executive secretary and other necessary employees shall receive such compensation as may be fixed by the board. The state board shall utilize such available services and assistance of other state agencies and of voluntary county and community committees and associations of agricultural producers as it determines to be necessary or calculated to assist substantially in the effective administration of this act.

Other employees.

Assistance of other state agencies.

Rules and regulations.

(b) The state board shall have authority to make such rules and regulations, consistent with the provisions of this act, and to do any and all other acts consistent with the provisions of this act which it finds to be necessary or proper for the effective administration of this act.

Other powers of board.

(c) The state board shall have power and authority to obtain, by lease or purchase, such equipment, office accommodations, facilities, services, and supplies, and to employ such technical or legal experts or assistants and such other employees, including clerical and stenographic help as it determines to be necessary or proper to carry out the provisions of this act, and to determine the qualifications, duties, and compensation of such experts, assistants and other employees.

Other agencies authorized to assist.

(d) All other agencies of this State are hereby authorized to assist the state board in carrying out the provisions of this act upon written request and in any manner determined by the state board to be necessary or appropriate for the effective administration of this act.

Reports.

Section 13. **Reports.** The state board shall compile or require to be made such reports as it determines to be necessary or proper in order to ascertain whether any plans provided for in this act are being carried out

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Requirements as to participating agencies.

according to their terms. The state board shall provide for compliance on the part of all persons and agencies participating in the administration of any such plan with such requirements and may make, or cause to be made, such investigations as it determines to be necessary or proper to assure the correctness of and to make possible the verification of such reports.

Separability of act.

Section 14. **Provisions for Separability.** Should any provision, clause, paragraph, section, or parts of this act be held invalid, it is hereby declared to be the legislative intent that the remainder of this act shall be in full force and effect and that the terms thereof are feasible and that the same would have been enacted without such provision, clause, paragraph, section, or parts had such invalidity been apparent.

Repealing clause.

Section 15. **Repeal of Inconsistent Legislation.** All laws and parts of laws insofar as they conflict with this act are hereby repealed.

Effective date of act.

Section 16. This act shall take effect upon its passage and approval by the governor and after the receipt of notification by the governor from the federal administration of the agricultural conservation and domestic allotment act that the administration of the provisions of the act within the State of Montana has by and with the approval of such federal agency been released to the Montana agricultural conservation board for the administration of the provisions of such act in cooperation with such federal agency. Upon receipt of such notification the governor of Montana shall by proclamation declare this act to be in full force and effect.

Proclamation by governor.

Approved March 16, 1937.

CHAPTER 135

An Act Amending Section 4630.1, Revised Codes of Montana, 1935, Relating to the Purposes for Which Bonds May Be Issued by Boards of County Commissioners in the State of Montana by Adding Thereto Two New Subdivisions to Be Known as Subdivision (h) and Subdivision (i), Providing That Bonds May Be Issued for the Purpose of Funding, Paying, Compromising, Set-

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tling and Satisfying Any Judgment Which May Have Been Rendered Against a County and Authorizing County Commissioners in Counties Having an Indebtedness Exceeding the Constitutional Limitation to Negotiate for and Enter Into Agreements With Bondholders Whereby Said Bondholders Agree to Accept Less Than the Amount of the Outstanding Bonds and Interest Thereon in Full Payment and Satisfaction of the Indebtedness evidenced by the Bonds of the County and to Issue Refunding Bonds for the Amount Agreed Upon; Amending Section 4630.3, Revised Codes of Montana, 1935, Relating to the Limitation on Amount of County Bonds Which May Be Issued; Amending Section 4630.4, Revised Codes of Montana, 1935, Relating to the Term, Redemption and Maximum Interest Rate of County Bonds; Amending Section 4630.6, Revised Codes of Montana, 1935, Relating to the Purposes for Which County Bonds May Be Issued Without Holding an Election; Repealing Chapter 6 of the Laws of the Extraordinary Session of the Twenty-third Legislative Assembly Relating to a Method and Procedure for Refunding Outstanding Bonded Indebtedness of Certain Counties, Cities, Towns or School Districts in This State Except as to Proceedings for the Issuance of Bonds Already Initiated Thereover, and All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 4630.1, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Purposes for which board of county commissioners may issue bonds.

"Section 4630.1. **Board of County Commissioners May Issue Bonds for Certain Purposes.** The board of county commissioners of every county of the State is hereby vested with the power and authority to issue, negotiate and sell coupon bonds on the credit of the county, as hereinafter in this act more specifically provided, for any of the following purposes:

Acquiring land.

Subdivision (a). For the purpose of acquiring land for sites and grounds for a public building or buildings of any kind within the county and under its control, which the county has lawful authority to acquire or erect, control and maintain; for the purpose of acquiring

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land for any other public use or activity within the county, under its control and authorized by law.

Public buildings.

Subdivision (b). For the purpose of constructing, erecting or acquiring by purchase necessary public buildings within the county, under its control and authorized by law, making additions to and repairing buildings and for the purpose of furnishing and equipping the same.

Highways.

Subdivision (c). For the purpose of acquiring rights of way for and constructing public highways and bridges, or either of them.

Indebtedness to another county.

Subdivision (d). For the purpose of enabling a county to liquidate its indebtedness to another county incident to the creation of a new county or the changing of any county boundary line.

Funding county warrants.

Subdivision (e). For the purpose of funding, paying and retiring outstanding county warrants lawfully issued against the county general fund, road fund, bridge fund or poor fund, when there is not sufficient money in the fund against which such warrants are drawn to pay and retire such warrants and the levying of taxes sufficient to pay and retire such warrants within a period of three (3) years would, in the judgment of the board of county commissioners, work a hardship and be an undue burden upon the taxpayers of the county.

Refunding bonds.

Subdivision (f). For the purpose of refunding, paying and redeeming optional, redeemable or maturing bonds when there are not sufficient funds available to pay such bonds and it is deemed for the best interests of the county to refund such bonds.

Funding seed grain and relief warrants.

Subdivision (g). For the purpose of funding, paying and retiring outstanding seed grain warrants lawfully issued under the provisions of Section 4651, and for the purpose of funding, paying and retiring outstanding special relief warrants lawfully issued under the provisions of Section 4692, when there is not sufficient money available to pay such warrants and the levying of special taxes sufficient to pay the same within a period of three (3) years would, in the judgment of the board of county commissioners, work a hardship and be an undue burden upon the taxpayers of the county.

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Subdivision (h). For the purpose of funding, paying in full or compromising, settling and satisfying any judgment which may have been rendered against the county in a court of competent jurisdiction, when there are not sufficient funds available to pay such judgment and when sufficient money cannot be raised to satisfy such judgment by an annual tax levy of ten (10) mills levied on all the taxable property within the county through a period of three (3) years.

Funding judgment against county.

The resolution providing for the issue of such bonds must recite the facts concerning the judgment to be funded and the terms of any compromise agreement which may have been entered into between the board of county commissioners and the judgment creditor.

Resolution.

Subdivision (i). Whenever the total indebtedness of a county exceeds the constitutional limitation of five per centum (5%) of the value of the taxable property therein and the board of county commissioners of said county finds and determines that the county is unable to pay and discharge such indebtedness in full, the said board of county commissioners shall have the power and authority to negotiate with the holders of the bonds of said county for an agreement or agreements whereby said bondholders agree to accept less than the full amount of such bonds and the accrued unpaid interest thereon in full payment and satisfaction thereof, to enter into such agreement or agreements and to issue refunding bonds for the amount agreed upon. These bonds may be issued in more than one series if the circumstances so require and each series may be either amortization bonds or serial bonds.

Agreements with holders of outstanding bonds.

The plan agreed upon between the board of county commissioners and the bondholders shall be embodied in full in the resolution providing for the issue of such bonds."

Resolution.

Section 2. That Section 4630.3, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Amending clause.

"Section 4630.3. **Limitation on Amount of Bonds—Issuance in Excess of Limitations Void.** No county shall issue bonds for any purpose which, with all outstanding bonds and warrants, except county high schools bonds and emergency bonds, will exceed two and one-half per

Limitation on amount of bonds.

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centum (2½%) of the value of the taxable property therein, to be ascertained by the last assessment for state and county taxes previous to the issuance of such bonds; provided, however, that a county may issue bonds which, with all outstanding bonds and warrants will exceed two and one-half per centum (2½%), but will not exceed five per centum (5%) of the value of such taxable property, when necessary to do so for the purpose of replacing, rebuilding, or repairing county buildings, bridges or highways which have been destroyed or damaged by an act of God, disaster, catastrophe, or accident, or when necessary to do so for the purpose of acquiring land for a site for county high school buildings and for erecting or acquiring buildings thereon and furnishing and equipping the same for county high school purposes; provided, however, that this act shall not be construed to extend limitations on bonded indebtedness for county high school purposes, as fixed by Section 1262.14, and acts amendatory thereof; and further provided, that the foregoing limitations shall not apply to refunding bonds issued for the purpose of paying or retiring county bonds lawfully issued prior to January 1, 1932. All bonds issued by any county in excess of the limitations herein fixed shall be null and void. The words 'value of the taxable property', as used in this section, are used in the same sense as in Section 5 of Article 13, of the constitution, and shall be given the same meaning and construction."

Proviso.

Refunding bonds.

"Value of the taxable property."

Amending clause.

Section 3. That Section 4630.4, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Term of bonds.

"Section 4630.4. **Term of Bonds—Power to Redeem—Maximum Interest.** No bonds issued for any of the purposes designated in Subdivisions (a), (b), or (c), of Section 4630.1, shall be for a longer term than twenty (20) years; no bonds issued for any of the purposes designated in Subdivisions (d), or (e), of Section 4630.1, shall be for a longer term than ten (10) years.

The following limitations as to term shall apply to all bonds issued under Subdivision (f) of Section 4630.1: No bonds issued to refund bonds issued later than June 30, 1923, shall be issued for a longer term than the unexpired term of the bonds to be refunded; no bonds issued to refund bonds issued prior to June 30, 1923, shall be for a longer term than ten (10) years unless this

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term will require an annual tax levy for the repayment of such bonds exceeding ten (10) mills on all the property subject to taxation in the county in which case the term may be so extended as to reduce the required annual tax levy to ten (10) mills, provided, however, that the term shall not under any circumstances exceed twenty (20) years.

No bonds issued for any of the purposes designated in Subdivision (g) of Section 4630.1 shall be for a longer term than five (5) years.

Bonds issued for any of the purposes designated in Subdivisions (h) and (i) of Section 4630.1 shall not be for a longer term than will be required to repay the bonds with interest through a tax levy of ten (10) mills on all the property within the county subject to taxation and the term shall not in any case exceed twenty (20) years. The length of the term required shall be estimated and calculated by the board of county commissioners based upon the percentage of valuation of the property upon which taxes are levied and paid within such county as ascertained from the last completed assessment for state and county taxes taking into account probable changes in the taxable valuation and losses in tax collections, provided, however, that irrespective of any miscalculation by the county commissioners in fixing the term of the bonds the county must from year to year make a sufficient tax levy to pay the interest and installments on principal on the bonds as the same fall due.

Estimating time required for repayment.

All bonds issued for a longer term than five (5) years shall be redeemable at the option of the county five (5) years from the date of issue and on any payment due date thereafter before maturity if stated on the face of the bonds. The maximum rate of interest which any of such bonds may bear shall be six per cent (6%) per annum and shall be payable semiannually."

Time of redemption.

Section 4. That Section 4630.6, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Amending clause.

"Section 4630.6. **Bonds Issued for Certain Purposes May Be Issued Without Holding an Election.** Bonds issued for the purpose of enabling a county to liquidate its indebtedness to another county incident to the creation of a new county or the changing of a county boun-

Bonds which may be issued without an election.

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dary line; for the purpose of funding, paying and retiring outstanding county warrants issued prior to January 1, 1937; provided, that bonds issued for funding warrants shall not be in a greater amount than the amount of the warrants of such county outstanding on July 1st, 1931; for the purpose of refunding, paying and redeeming optional, redeemable or maturing bonds issued prior to January 1, 1932; for the purpose of funding seed grain warrants and special relief warrants; for the purpose of funding, paying in full, or compromising, settling and satisfying any judgment which may have been rendered against the county in a court of competent jurisdiction; and for the purpose of refunding any bonds for which the holders have agreed to accept less than the full amount of principal and interest in full payment and satisfaction; as set forth in Subdivisions (d), (e), (f), (g), (h) and (i), of Section 4630.1, may be issued without submitting the same to an election. In order to issue bonds for any of said purposes it shall only be necessary for the board of county commissioners, at a regular or duly called special meeting, to pass and adopt a resolution setting forth the facts in regard to the indebtedness to be paid or bonds to be refunded, showing the reason for issuing such bonds and fixing and determining the details thereof, giving notice of the sale thereof in the same manner that notice is required to be given of the sale of bonds authorized at an election, and then following the procedure prescribed in this act for the sale and issuance of such bonds.

Procedure.

Sale of bonds.

All bonds sold without submitting the question of their issue to an election, as herein authorized, shall be sold at open competitive bidding, but all sealed and written bids submitted for the purchase of such bonds shall be considered the same as open bids."

Repealing clause.

Section 5. That Chapter 6 of the Laws of the Extraordinary Session of the Twenty-third Legislative Assembly and all acts and parts of acts in conflict with the provisions of this act are hereby repealed, provided, however, that any and all outstanding bonds lawfully issued or hereafter issued under proceedings which have already been completed under the provisions of said Chapter 6 of the Extraordinary Session of the Twenty-third Legislative Assembly shall be and remain valid and subsisting bonds and obligations; provided, further, that any coun-

Outstanding bonds not affected.

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ties that prior to the effective date of this act, shall have initiated proceedings under said Chapter 6 as amended, may complete such proceedings thereunder and that said Chapter 6 as amended, shall govern such proceedings in their entirety and the bonds issued pursuant thereto.

Proceeding already initiated.

Section 6. If any section, clause, sentence, or provision of this act or the application of such section, clause, sentence, or provision to any person, party, or circumstance shall be held unconstitutional or otherwise invalid, the remainder of this act or the application of such section, clause, sentence, or provision to parties or circumstances other than those as to which it is held invalid shall not be affected thereby.

Validity of act.

Section 7. This act shall be in full force and effect from and after the date of its passage and approval.

Effective date.

Approved March 16, 1937.

CHAPTER 136

An Act to Amend Sections 3321, 3322 and 3323 of the Revised Codes of Montana of 1935 Relating to the Inspection of Cattle to Be Removed From State; Duties of Stock Inspector, and Penalties for the Violation of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 3321 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Amending clause.

"Section 3321. **Inspection of Cattle to Be Removed From State.** It shall be the duty of any and all persons removing or taking from this State in any manner whatsoever, any cow, ox, bull, stag, heifer, steer, calf, horse or mule, immediately before the shipment of same, or its removal, and at the time and place from which said shipment is to be made, to cause the same to be inspected by a stock inspector of the State as hereinafter provided; provided, however, that whenever any of the class of stock aforementioned shall be loaded for shipment with any railroad company and consigned to any point where

Inspection of livestock to be removed from state.

Proviso, as to inspection at destination.

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the state board of stock commissioners maintain a stock inspector, then and in such event only, such shipments so consigned, need not be inspected in this State before shipment."

Amending clause.

Section 2. That Section 3322 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

"Section 3322. **Duties of Stock Inspector.** On receiving notice from any person that he desires to remove from this State to be sold or used outside of the State any of the class of animals mentioned in the preceding section, it shall be the duty of any stock inspector to whom such is given, to inspect said animals, carefully noting all of the brands and marks upon same, and make a report of such inspection to the secretary of the board of stock commissioners, which said report shall show the date of such inspection, the name and address of the person taking said animals from the State, the destination of the shipment, the marks and brands upon each animal together with the number of animals listed under each brand; and if in the opinion of the stock inspector the person proposing to remove the same, is rightfully in possession of the animals inspected, he shall grant such persons a certificate of inspection, containing the matter herein provided, with the further statement that permission is granted said person to remove such animals from the State. The person receiving said certificate must, if shipment is made by railroad, deposit it with the railroad agent at the point from which said shipment was made, which certificate must be filed by the agent and must be at all times during business hours accessible to the public, and the agent must at the time of filing said certificate indorse upon it the date of its receipt and filing by him; if shipment is made other than by railroad, the person receiving said certificate must retain the same until the animals are sold or delivered, after which, it shall be forwarded to the livestock commission with a verified statement attached thereto, showing the name and address of the person, firm or corporation to whom the animals were sold or delivered. If, however, any stock inspector making such inspection shall be in doubt as to whether any of said stock is rightfully in possession of the person proposing to remove same from this State, he shall withhold such inspection certificate

Duty of stock inspector.

Report.

Certificate of inspection.

When certificate to be withheld.

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until satisfied that the said shipper is in rightful possession of such stock."

Amending clause.

Section 3. That Chapter 287 of the political code of the Revised Codes of Montana of 1935, be, and the same is hereby amended by adding a new section to be known as Section 3322.1 to read as follows:

Fees for inspection.

"Section 3322.1. **Fees for Inspection.** For the service of inspection herein provided for, the officer making such inspections shall receive twenty-five cents per head for the inspection of twelve head or less or three dollars per day for the inspection of more than twelve head, and shall receive in addition thereto his necessary actual expenses, to be paid by the person for whom the inspection is made."

Amending clause.

Section 4. That Section 3323 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Penalty for violation of act.

"Section 3323. **Penalty for Violation of Act.** Any person removing or attempting to remove any livestock of the kind named in Section 3321 of this code, without first having received the certificate of inspection and removal herein provided for, and any railroad, other carrier or person accepting for shipment any such livestock, without compelling the shipper to first give satisfactory evidence of his having received an inspection and removal certificate as herein provided, and any person refusing to exhibit such certificate upon proper demand, and any person who shall load any of such stock for shipping and consign same to any point where the livestock commission maintains a stock inspector, and who shall then reconsign them en route to any other points, so as to avoid inspection at point of shipment, and also the official inspection at the cities heretofore mentioned where such inspection is maintained, shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined in a sum of not less than fifty nor more than five hundred dollars, or by imprisonment in the county jail for a period of not more than six months, or shall be punished by both such fine and imprisonment. All fines assessed and collected under the provisions of this act, fifty (50%) per cent thereof shall be turned into the state treasury, and placed to the credit of the livestock

Disposition of fines.

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commission fund and fifty (50%) per cent to the credit of the county in which the livestock shipment originated or from which the livestock were taken, except that all fines collected where arrest is made by highway patrolmen, or upon information furnished by highway patrolmen, in which event, fifty (50%) per cent of such fines be deposited to the credit of the general fund of the county from which the livestock shipment originated or from which the livestock were taken, and the other fifty (50%) per cent be paid into the state treasury to be placed to the credit of the highway patrol revolving fund."

Repealing clause.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 6. This act shall be in full force and effect from and after its passage and approval.

Approved March 16, 1937.

CHAPTER 137

An Act Providing for Unemployment Compensation; Creating a State Unemployment Compensation Commission; Establishing an Unemployment Compensation Fund and Providing for the Administration, Distribution and Investment Thereof; Providing for the Assessment and Collection of Contributions Upon Payrolls of Employers; Creating a State Employment Service and Providing an Appropriation Therefor; Providing Penalties for Violations.

Be it enacted by the Legislative Assembly of the State of Montana:

Title.

Section 1. This Act shall be known and may be cited as the "Unemployment Compensation Law".

DECLARATION OF STATE PUBLIC POLICY

Public policy as to unemployment.

Section 2. As a guide to the interpretation and application of this Act, the public policy of this State is declared to be as follows: Economic insecurity due to unemployment is a serious menace to the health, morals, and welfare of the people of this State. Involuntary unemployment is therefore a subject of general interest and concern which requires appropriate action by the

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legislature to prevent its spread and to lighten its burden which now so often falls with crushing force upon the unemployed worker and his family. The achievement of social security requires protection against this greatest hazard of our economic life. This can be provided by encouraging employers to provide more stable employment and by the systematic accumulation of funds during periods of employment to provide benefits for periods of unemployment, thus maintaining purchasing power and limiting the serious social consequences of poor relief assistance. The legislature, therefore, declares that in its considered judgment the public good, and the general welfare of the citizens of this State require the enactment of this measure under the police powers of the State for the compulsory setting aside of unemployment reserves to be used for the benefit of persons unemployed through no fault of their own.

Enactment under police powers of state.

BENEFITS

When and how benefits are payable.

Section 3. (a) **Payment of Benefits.** Thirty (30) months after the date when contributions first accrue under this Act from the employer, benefits shall become payable from the fund to any individual who thereafter is or becomes unemployed and eligible for benefits as is herein prescribed. All benefits shall be paid through public employment offices in the State of Montana in accordance with such rules and regulations as the commission may prescribe.

Amount.

(b) **Weekly Benefit Amount for Total Unemployment.** Each eligible individual who is totally unemployed (as defined in this Act) in any week shall be paid with respect to such week, benefits at the rate of fifty per centum of his full-time weekly wages but not more than $15.00 per week, nor less than either $7.00, or three-fourths of his full-time weekly wage, whichever is the lesser.

Full-time weekly wage defined.

(c) **Determination of Full-time Weekly Wage.** (1) The full-time weekly wage of any individual means the weekly wages that such individual would receive if he were employed at the most recent wage rate earned by him for employment by an employer during the period prescribed pursuant to paragraph (3) of this subsection, and for the customary scheduled full-time weekly hours prevailing for his occupation in the enterprise in which

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he last earned wages for employment by an employer during the same period.

When based upon quarterly wages.

(2) If the commission finds that the full-time weekly wage, as above defined, would be unreasonable or arbitrary or not readily determinable with respect to any individual, the full-time weekly wage of such individual shall be deemed to be one-thirteenth of his total wages for employment by employers during that quarter in which such total wages were highest during the period prescribed pursuant to paragraph (3) of this subsection.

When determined.

(3) The full-time weekly wage of any individual shall be determined and redetermined at such reasonable times as the commission may find necessary to administer this Act and may by regulation prescribe. The period hereinabove referred to shall consist of the next to the last completed calendar quarter immediately preceding the date with respect to which an individual's full-time weekly wage is determined, and such of the seven immediately preceding consecutive calendar quarters as the commission may by regulation prescribe.

Which calendar quarter as basis.

How wage credits are computed.

(d) **Duration of Benefits.** The commission shall compute wage credits for each individual by crediting him with the wages earned by him for employment by employers during each quarter, or $390, which ever is the lesser. Benefits paid to any eligible individual shall be charged, in the same chronological order as such wages were earned, against one-sixth of his wage credits which are based upon wages earned during his base period and which have not been previously charged hereunder. The maximum total amount of benefits payable to any eligible individual during any benefit year shall not exceed whichever is the lesser of (1) sixteen times his weekly benefit amount, and (2) one-sixth of such uncharged wage credits with respect to his base period.

How benefits paid are charged.

Limitation of benefits payable.

(e) **Part-time Workers.**

"Part-time worker" defined.

(1) As used in this subsection the term "part-time worker" means an individual whose normal work is in an occupation in which his services are not required for the customary scheduled full-time hours prevailing in the establishment in which he is employed or who, owing to personal circumstances, does not customarily work the customary scheduled full-time hours prevailing in the establishment in which he is employed.

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Rules to be prescribed by commission.

(2) The commission shall prescribe fair and reasonable general rules applicable to part-time workers for determining their full-time weekly wage and the total wages for employment by employers required to qualify such workers for benefits. Such rules shall, with respect to such workers, supersede any inconsistent provisions of this act, but, so far as practicable, shall secure results reasonably similar to those provided in the analogous provisions of this act.

Their purpose and effect.

BENEFIT ELIGIBILITY CONDITIONS

Eligibility for benefits.

Section 4. An unemployed individual shall be eligible to receive benefits with respect to any week only if the commission finds that—

Shall register and report.

(a) He has registered for work at and thereafter has continued to report at an employment office in accordance with such regulations as the commission may prescribe.

Must make claim.

(b) He has made a claim for benefits in accordance with the provisions of Section 6 (a) of this act.

(c) He is able to work, and is available for work.

Waiting period; requirements for waiting period week.

(d) Prior to any week for which he claims benefits he has been totally unemployed for a waiting period of three weeks. No week shall be counted as a week of total unemployment for the purposes of this subsection:

(1) If benefits have been paid with respect thereto;

(2) Unless the individual was eligible for benefits with respect thereto in all respects except for the requirements of subsections (b) and (e) of this section;

(3) Unless it occurs within the thirteen consecutive weeks preceding the week for which he claims benefits, provided, that this requirement shall not interrupt the payments of benefits for consecutive weeks of unemployment; and provided further, that any individual who, prior to the first day of his benefit year, shall have accumulated such three waiting period weeks, shall not be required to accumulate more than three additional waiting period weeks during his ensuing benefit year;

(4) Unless it occurs after benefits first could become payable to any individual under this act.

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Minimum of earned wages.

(e) He has within the first three out of the last four completed calendar quarters immediately preceding the first day of his benefit year, earned wages for employment by employers equal to not less than sixteen times his weekly benefit amount.

DISQUALIFICATION FOR BENEFITS

Disqualification for benefits.

Section 5. An individual shall be disqualified for benefits—

Leaving work.

(a) If he has left work voluntarily without good cause, if so found by the commission, for a period of not less than one (1) or more than (5) weeks (in addition to and immediately following the waiting period), as determined by the commission according to the circumstances in each case.

Discharge for misconduct.

(b) If he has been discharged for misconduct connected with his work, if so found by the commission, for a period of not less than the one (1) nor more than the nine (9) weeks (in addition to and immediately following the waiting period), as determined by the commission in each case according to the seriousness of the misconduct.

Failure to apply for or accept work.

(c) If the commission finds that he has failed, without good cause, either to apply for available, suitable work when so directed by the employment office or the commission or to accept suitable work when offered him, or to return to his customary self-employment (if any) when so directed by the commission. Such disqualification shall continue for the week in which such failure occurred and for not less than the one nor more than the five weeks which immediately follow such week (in addition to the waiting period) as determined by the commission according to the circumstances in each case.

Suitability of work.

(1) In determining whether or not any work is suitable for an individual, the commission shall consider the degree of risk involved to his health, safety, and morals, his physical fitness and prior training, his experience and prior earnings, his length of unemployment and prospects for securing local work in his customary occupation, and the distance of the available work from his residence.

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When benefits shall not be denied.

(2) Notwithstanding any other provisions of this act, no work shall be deemed suitable and benefits shall not be denied under this act to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

Labor dispute.

(a) If position offered is vacant due directly to a strike, lockout, or other labor dispute;

Unfavorable conditions.

(b) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;

Compulsion as to union or labor organization.

(c) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

Stoppage of work.

(d) For any week with respect to which the commission finds that his total unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which he is or was last employed, provided that this subsection shall not apply if it is shown to the satisfaction of the commission that—

Proviso.

Participation in labor dispute.

(1) He is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and

Connection with those in labor dispute.

(2) He does not belong to a grade or class of workers of which immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute;

Separate factory defined.

Provided, That if in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purposes of this subsection, be deemed to be a separate factory, establishment, or other premises; provided, further, that if the commission upon investigation, shall find that such labor dispute is caused by the failure or refusal of any employer to conform to the provisions of any law of the State of Montana or of the United States pertaining to collective bargaining, hours, wages or other conditions of work, such labor dispute shall not render the workers ineligible for benefits.

Dispute caused by employer.

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Payments which do not disqualify.

(e) For any week with respect to which he is receiving or has received payment in the form of—

Wages due to termination.

(1) Wages in lieu of notice or separation or termination allowance;

Disability compensation.

(2) Compensation for temporary disability under the workmen's compensation law of any state or under a similar law of the United States, or

Old age benefits.

(3) Old age benefits under Title II of the social security act, as amended, or similar payments under any act of congress, provided, that if such remuneration as referred to in (1) (2) and (3) of this subsection is less than the benefits which would otherwise be due under this act, he shall be entitled to receive for such week, if otherwse eligible, benefits reduced by the amount of such remuneration.

CLAIMS FOR BENEFITS

How claims are made.

Employer shall post regulations.

Section 6. (a) **Filing.** Claims for benefits shall be made in accordance with such regulations as the commission may prescribe. Each employer shall post and maintain printed statements of such regulations in places readily accessible to individuals in his service and shall make available to each such individual at the time he becomes unemployed, a printed statement of such regulations. Such printed statements shall be supplied by the commission to each employer without cost to him.

Duty of deputy with reference to claim.

May refer to appeal tribunal.

When findings of fact shall be transmitted to commission.

(b) **Initial Determination.** A representative designated by the commission, and hereinafter referred to as a deputy, shall promptly examine the claim and, on the basis of the facts found by him, shall either determine whether or not such claim is valid, and if valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and the maximum duration thereof, or shall refer such claim or any question involved therein to an appeal tribunal which shall make its decisions with respect thereto in accordance with the procedure prescribed in subsection (c) of this section, except that in any case in which the payment or denial of benefits will be determined by the provisions of section 5 (d) of this act, the deputy shall promptly transmit his full finding of fact with respect to that subsection to the commission, which, on the basis of the evidence submitted and such additional evidence as it may require,

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shall affirm, modify, or set aside such findings of fact and transmit to the deputy a decision upon the issues involved under that subsection which shall be deemed the decision of the deputy. The deputy shall promptly notify the claimant and any other interested party of the decision and the reasons therefor. The deputy may for good cause reconsider his decision and shall promptly notify the claimant and such other interested parties of his amended decision and the reasons therefor. Unless the claimant or any such interested party, within five calendar days after the delivery of such notification, or within seven calendar days after such notification was mailed to his last known address, files an appeal from such decision, such decision shall be final and benefits shall be paid or denied in accordance therewith. If an appeal is duly filed, benefits with respect to the period prior to the final decision of the commission, shall be paid only after such decision. Provided, that if an appeal tribunal affirms a decision of a deputy, or the commission affirms a decision of an appeal tribunal, allowing benefits, such benefits shall be paid regardless of any appeal which may thereafter be taken, but if such decision is finally reversed, no employer's account shall be charged with benefits so paid.

To notify claimant.

May reconsider.

Time for appeal from decision.

Benefit payments in case of appeal.

(c) **Appeals.** Unless such appeal is withdrawn, an appeal tribunal, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and decision of the deputy. The parties shall be duly notified of such tribunal's decision, together with its reasons therefor, which shall be deemed to be the final decision of the commission, unless within ten days after the date of notification or mailing of such decision, further appeal is initiated pursuant to subsection (e) of this section.

Appeal tribunal shall affirm or modify findings and decision.

Time for further appeal.

(d) **Appeal Tribunals.** To hear and decide disputed claims, the commission shall appoint such impartial appeal tribunals as are necessary for the proper administration of this act, consisting in each case of either a salaried examiner selected in accordance with section 11 (d) of this act, or a body consisting of three members, one of whom shall be a salaried examiner, who shall serve as chairman, one of whom shall be a representative of employers, and the other of whom shall be a representative of employees; each of the latter two

Functions and personnel of appeal tribunal.

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Compensation.

members shall serve at the pleasure of the commission and be paid a fee of not more than $10.00 per day of active service on such tribunal plus necessary expense. No person shall participate on behalf of the commission in any case in which he is an interested party. The commission may designate alternates to serve in the absence or disqualification of any member of an appeal tribunal. The chairman shall act alone in the absence or disqualification of any other member and his alternates. In no case shall the hearings proceed unless the chairman of the appeal tribunal is present.

Alternates.

Chairman.

Power of commission with respect to review and appeals.

(e) **Commission Review.** The commission may on its own motion affirm, modify, or set aside any decision of an appeal tribunal on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate further appeals before it. The commission shall permit such further appeal by any of the parties interested in a decision of an appeal tribunal which is not unanimous and by the deputy whose decision has been overruled or modified by an appeal tribunal. The commission may remove to itself or transfer to another appeal tribunal the proceedings on any claim pending before an appeal tribunal. Any proceeding so removed to the commission shall be heard by a quorum thereof in accordance with the requirements in subsection (c) of this section. The commission shall promptly notify the interested parties of its findings and decision.

Procedure to be prescribed by regulations.

(f) **Procedure.** The manner in which disputed claims shall be presented, the reports thereon required from the claimant and from employers, and the conduct of hearings and appeals shall be in accordance with regulations prescribed by the commission for determining the rights of the parties, whether or not such regulations conform to common law or statutory rules of evidence and other technical rules or procedure. A full and complete record shall be kept of all proceedings in connection with a disputed claim. All testimony at any hearing upon a disputed claim shall be recorded, but need not be transcribed unless the disputed claim is further appealed.

Record.

Testimony to be recorded.

Witness fees allowable, as part of expense.

(g) **Witness Fees.** Witnesses subpoenaed pursuant to this section shall be allowed fees at a rate fixed by

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the commission. Such fees shall be deemed a part of the expense of administering this act.

(h) **Appeal to Courts.** Any decision of the commission in the absence of an appeal therefrom as herein provided shall become final ten days after the date of notification or mailing thereof, and judicial review thereof shall be permitted only after any party claiming to be aggrieved thereby has exhausted his remedies before the commission as provided by this act. The commission shall be deemed to be a party to any judicial action involving any such decision, and may be represented in any such judicial action by any qualified attorney employed by the commission and has been designated by it for that purpose, or at the commission's request, by the attorney general.

When judicial review is permitted.

The commission deemed a party.

May be represented by an attorney or the attorney general.

(i) **Court Review.** Within ten days after the decision of the commission has become final, any party aggrieved thereby may secure judicial review thereof by commencing an action in the district court of the county in which said party resides against the commission for the review of its decision, in which action any other party to the proceeding before the commission shall be made a defendant. In such action, a petition which need not be verified, but which shall state the grounds upon which a review is sought, shall be served upon a member of the commission or upon such person as the commission may designate and such service shall be deemed completed service on all parties, but there shall be left with the party so served as many copies of the petition as there are defendants and the commission shall forthwith mail one such copy to each such defendant. With its answer, the commission shall certify and file with said court all documents and papers and a transcript of all testimony taken in the matter, together with its findings of fact and decision therein. The commission may also in its discretion, certify to such court questions of law involved in any decision by it. In any judicial proceeding under this section, the findings of the commission as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive, and the jurisdiction of said court shall be confined to questions of law. Such action, and the questions so certified, shall be heard in a summary manner and shall be given precedence over all other civil cases except cases arising under the work-

Aggrieved party may commence action in district court.

Petition and service.

Commission to file certified papers and transcript.

May certify questions of law.

Jurisdiction of district court.

Procedure.

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men's compensation law of this state. An appeal may be taken from the decision of the said district court to the supreme court of Montana in the same manner, but not inconsistent with the provisions of this act, as is provided in civil cases. It shall not be necessary, in any judicial proceeding under this section, to enter exceptions to the rulings of the commission and no bond shall be required for entering such appeal. Upon the final determination of such judicial proceeding, the commission shall enter an order in accordance with such determination. A petition for judicial review shall not act as a supersedeas or stay unless the commission shall so order.

Appeal to supreme court.

Appeal bond not required.

Judicial review not to act as supersedeas.

CONTRIBUTIONS

Section 7. (a) **Payment.** (1) On and after January 1, 1937, contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this act, with respect to wages payable for employment (as defined in this act) occurring during such calendar year. Such contributions shall become due and be paid by each employer to the commission may prescribe, and shall not be deducted, in whole or in part, from the wages of individuals in his employ.

Contributions not deductible from wages.

(Printer's note: Printed exactly as the enrolled bill.)

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

Fractional part of a cent.

(b) **Rate of Contribution.** (1) Each employer shall pay contributions equal to the following percentages of wages payable by him with respect to employment:

Rate of contribution.

(a) One and eight-tenths per centum with respect to employment during the calendar year 1937;

During 1937.

(b) Two and seven-tenths per centum with respect to employment during the calendar years 1938, 1939, 1940, 1941.

During 1938-1941.

(3) With respect to employment after June 30, 1942, the percentage determined pursuant to subsection (c) of this section.

After June 30, 1942.

(c) **Future Rates Based on Benefit Experience.** The commission shall, for the period of twelve months commencing July 1, 1942, and for each calendar year thereafter, classify employers in accordance with their actual

Employers to be classified.

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contribution and benefit experience and shall determine for each employer the rate of contribution which shall apply to him throughout the calendar year in order to reflect said experience and classification. In making such classification, the commission shall take account of the degree of unemployment hazard shown by each employer's experience, and of any other measurable factors which it finds bear a reasonable relation to the purposes of this subsection. It may apply such form of classification or rating system which in its judgment is best calculated to rate individually and most equitably the employment for each employer and to encourage the stabilization of employment. The general basis of classification proposed to be used for any calendar year shall be subject to fair notice, opportunity for hearing, and publication. The rates for any calendar year shall be so fixed that they would, if applied to all employers and their annual pay rolls of the preceding calendar year, have yielded total contributions equaling approximately 2.7 per centum of the total of all such annual pay rolls. The commission shall determine the contribution rate applicable to each employer for any calendar year subject to the following limitations:

Notice, hearing and publication.

Basis of contribution rates.

Limitations.

(1) Each employer's contribution rate shall be 2.7 per centum, unless and until there shall have been three calendar years throughout which any individual in his employ could have received benefits if unemployed and eligible.

(2) No employer's contribution rate shall be less than 1 per centum.

(3) No employer's contribution rate shall be more than 3.6 per centum.

PERIOD, ELECTION AND TERMINATION OF EMPLOYER'S COVERAGE

Section 8. (a) Any employing unit which is or becomes an employer subject to this act within any calendar year, shall be subject to this act during the whole of such calendar year.

Employer's coverage is for calendar year.

(b) Except as otherwise provided in subsection (c) of this section, an employing unit shall cease to be an employer subject to this act only as of the first day of January of any calendar year, only if it files with

When employer may cease to be subject to act.

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the commission prior to the 5th day of January of such year, a written application for termination of coverage and the commission finds that there were no twenty (20) different days, each day being in a different week within the preceding calendar year within which such employing unit employed one (1) or more individuals in an employment subject to this act. For the purposes of this subsection, the two or more employing units mentioned in paragraph (2) or (3) of Section 19 (i) shall be treated as a single employing unit.

Election to become subject to act.

(c) An employing unit not otherwise subject to this act, which files with the commission its written election to become an employer subject hereto for not less than two (2) calendar years, shall, with the written approval of such election by the commission become an employer subject hereto to the same extent as all other employers as of the date stated in such approval, and shall cease to be subject hereto as of January 1 of any calendar year subsequent to such two (2) calendar years only if at least thirty (30) days prior to said first day of January it has filed with the commission a written notice to that effect.

Election that services shall be deemed employment under act.

Any employing unit for which services that do not constitute employment as defined in this act, are performed may file with the commission, a written election that all such services performed by individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment for all the purposes of this act for not less than two (2) calendar years. Upon the written approval of such election by the commission, such services shall be deemed to constitute employment subject to this act from and after the date stated in such approval. Such services shall cease to be deemed employment subject hereto as of January 1 of any calendar year subsequent to such two (2) calendar years only if at least thirty (30) days prior to such first day of January such employing unit has filed with the commission a written notice to that effect.

UNEMPLOYMENT COMPENSATION FUND

Unemployment compensation fund established.

Section 9. (a) **Establishment and Control.** There is hereby established as a special fund, separate and apart from all public moneys or funds of this state, an unem-

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ployment compensation fund, which shall be administered by the commission exclusively for the purposes of this act. This fund shall consist of (1) all contributions collected under this act, together with any interest thereon collected pursuant to Section 14 of this act; (2) all fines and penalties collected pursuant to the provisions of this act; (3) interest earned upon any moneys in the fund; (4) any property or securities acquired through the use of moneys belonging to the fund; and (5) all earnings of such property or securities. All moneys in the fund shall be mingled and undivided.

Moneys included.

(b) **Accounts and Deposit.** The state treasurer shall be ex-officio the treasurer and custodian of the fund who shall administer such fund in accordance with the directions of the commission and shall issue his warrants upon it in accordance with such regulations as the commission shall prescribe. He shall maintain within the fund three separate accounts: (1) a clearing account, (2) an unemployment trust fund account, and (3) a benefit account. All moneys payable to the fund, upon receipt thereof by the commission, shall be forwarded to the treasurer who shall immediately deposit them in the clearing account. Refunds payable pursuant to Section 14 of this act may be paid from the clearing account upon warrants issued by the treasurer under the direction of the commission. After clearance thereof, all other moneys in the clearing account shall be immediately deposited with the secretary of the treasury of the United States of America to the credit of the account of this state in the unemployment trust fund, established and maintained pursuant to Section 904 of the social security act, as amended, any provision of law in this state relating to the deposit, administration, release, or disbursement of moneys in the possession or custody of this state to the contrary notwithstanding. The benefit account shall consist of all moneys requisitioned from this State's account in the unemployment trust fund. Except as herein otherwise provided, moneys in the clearing and benefit accounts may be deposited by the treasurer, under the direction of the commission, in any bank or public depository in which general funds of the state may be deposited but no public deposit insurance charge or premium shall be paid out of the fund. The treasurer shall give a separate bond conditioned upon the faithful performance of his duties as custodian of the fund in an

State treasurer to administer fund.

Separate accounts.

Clearing account.

Benefit account.

Depository.

Treasurer to give separate bond.

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amount fixed by the commission and in a form prescribed by law or approved by the attorney general. Premiums for said bond shall be paid from the administration fund.

Withdrawals from unemployment trust fund.

(c) **Withdrawals.** Moneys shall be requisitioned from this State's account in the unemployment trust fund solely for the payment of benefits and in accordance with regulations prescribed by the commission. The commission shall from time to time requisition from the unemployment trust fund such amounts, not exceeding the amounts standing to this State account therein, as it deems necessary for the payment of benefits for a reasonable future period. Upon receipt thereof the treasurer shall deposit such moneys in the benefit account and shall issue his warrants for the payment of benefits solely from such benefit account. Expenditures of such moneys in the benefit account and refunds from the clearing account shall not be subject to any provisions of law requiring specific appropriations or other formal release by state officers of money in their custody. All warrants issued by the treasurer for the payment of benefits and refunds shall bear the signature of the treasurer and the counter signature of a member of the commission or its duly authorized agent for that purpose. Any balance of moneys requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits during succeeding periods, or, in the discretion of the commission, shall be redeposited with the secretary of the treasury of the United States of America, to the credit of this State's account in the unemployment trust fund, as provided in subsection (b) of this section.

To be deposited in benefit account.

Expenditures not subject to other provisions of law.

Warrants.

Disposition of balance.

Disbursement of funds if federal act becomes inoperative.

(d) **Disbursement of Funds if Federal Act Becomes Inoperative.** If Title III or IX of the federal social security act is declared unconstitutional or in any way is inoperative, this act automatically becomes inoperative under the provisions of this act, and the funds which then remain in the unemployment trust fund shall immediately be paid to the state treasurer to be paid into the unemployment compensation fund and funds there held shall be immediately distributed, upon order of the commission, to the employers who have contributed thereto on a proportionate basis. If any part thereof remains un-

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distributed for a period of one (1) year it shall be paid to the general fund of the State of Montana.

UNEMPLOYMENT COMPENSATION COMMISSION

Unemployment compensation commission created.

Section 10. (a) **Organization.** There is hereby created a commission to be known as the unemployment compensation commission of Montana. The commission shall consist of three members who shall be appointed by the governor on a non-partisan merit basis within sixty days after the passage of this act and after any vacancy occurs in its membership. Two of the members of the commission shall serve on a per diem basis and shall be paid at the rate of ten dollars ($10.00) per day of service plus actual and necessary expenses, provided, however, that the total per diem compensation in any one year for each of the said two members shall not exceed the sum of five hundred dollars ($500.00). Each per diem member shall hold office for a term of six years, except that (1) a member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and (2) the terms of office of the member first taking office after the date of enactment of this act shall expire, as designated by the governor at the time of appointment, one at the end of three years, the other at the end of six years. The third member of the commission, who shall be designated as chairman at the time of his appointment, shall be paid a full-time salary in an amount to be fixed by the governor and shall be the executive director. During his term of membership on the commission no member shall serve as an officer or committee member of any political party organization. The governor may at any time, after notice and hearing, remove any commissioner for inefficiency, neglect of duty, malfeasance, misfeasance, or nonfeasance in office.

Compensation of members.

Term of office.

Chairman to be executive director; salary.

Members restricted as to political activity.

Removal from office by governor.

Two divisions to be established: Montana state employment service and unemployment compensation division.

(b) **Divisions.** The commission shall establish two coordinate divisions: The Montana state employment service division created pursuant to Section 12 of this act, and the unemployment compensation division. Each division shall be responsible to the executive director for the discharge of its distinctive function. Each division shall be a separate administrative unit with respect to personnel, budget, and duties except insofar as the commission may find that such separation is impracticable.

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Quorum.
Effect of vacancy.

(c) **Quorum.** Any two commissioners shall constitute a quorum. No vacancy shall impair the right of the remaining commissioners to exercise all of the powers of the commission.

ADMINISTRATION

Powers and duties of commission.

Section 11. (a) **Duties and Powers of Commission.** It shall be the duty of the commission to administer this act; and it shall have power and authority to adopt, amend, or rescind such rules and regulations, to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action as it deems necessary or suitable to that end. Such rules and regulations shall be effective upon publication in the manner, not inconsistent with the provisions of this act, which the commission shall prescribe. The commission shall determine its own organization and methods of procedure in accordance with the provisions of this act, and shall have an official seal which shall be judicially noticed. Not later than the 1st day of February of each year, the commission shall submit to the governor a report covering the administration and operation of this act during the preceding calendar year and shall make such recommendations for amendments to this act as the commission deem proper. Such report shall include a balance sheet of the moneys in the fund in which there shall be provided, if possible, a reserve against the liability in future years to pay benefits in excess of the then current contributions, which reserve shall be set up by the commission in accordance with accepted actuarial principles on the basis of statistics of employment, business activity, and other relevant factors for the longest possible period. Whenever the commission believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, it shall promptly so inform the governor and the legislature, and make recommendations with respect thereto.

Annual report.

Rules by the commission.

(b) **Regulations and General and Special Rules.** General and special rules may be adopted, amended, or rescinded by the commission only after public hearing or opportunity to be heard thereon, of which proper notice has been given. General rules shall become effective ten days after filing with the secretary of the state and

General rules.

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publication in one or more newspapers of general circulation in this state. Special rules shall become effective ten days after notification to or mailing to the last known address of the individuals or concerns affected thereby. Regulations may be adopted, amended, or rescinded by the commission and shall become effective in the manner and at the time prescribed by the commission.

Special rules.

Regulations.

(c) **Publication.** The commission shall cause to be printed for distribution to the public the text of this act, the commission's regulations and general and special rules, its annual reports to the governor, and any other material the commission deems relevant and suitable and shall furnish the same to any person upon application therefor.

Publications by the commission.

(d) **Personnel.** Subject to other provisions of this act, the commission is authorized to appoint, fix the compensation and prescribe the duties and powers of such officers, accountants, attorneys, experts, and other persons as may be necessary in the performance of its duties under this act. The commission may delegate to any such persons such power and authority as it deems reasonable and proper for the effective administration of this act, and may in its discretion bond any person handling money or signing checks hereunder. The commission shall classify positions under this act and shall establish salary schedules and minimum personnel standards for the positions so classified. The commission shall provide for the holding of examinations to determine the qualifications of applicants for the positions so classified, and except for temporary appointments of not to exceed six months in duration, such personnel shall be appointed on the basis of efficiency and fitness as determined in such examinations. No person who is an officer or committee member of any political party organization or who holds or is a candidate for any public office shall be appointed or employed under this act. The commission shall establish and enforce fair and reasonable regulations for appointments, promotions, and demotions based upon ratings of efficiency and fitness and for terminations for cause.

May appoint personnel, fix compensation and prescribe duties.

Shall classify positions.

Examinations.

Appointments on basis of examinations.

Restriction as to political activity.

Regulations as to personnel.

(e) **Records and Reports.** Each employing unit shall keep true and accurate work records, containing such information as the commission may prescribe. Such rec-

Employers to keep work records.

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ords shall be open to inspection and shall be subject to being copied by the commission or its authorized representative at any reasonable time and as often as may be necessary. The commission and the chairman of any appeal tribunal may require from any employing unit any sworn or unsworn reports with respect to persons employed by it which the commission deems necessary to the effective administration of this act. Information thus obtained or obtained from any individual pursuant to the administration of this act shall except to the extent necessary for the proper presentation of a claim be held confidential and shall not be published or be open to public inspection (other than to public employees in the performance of their public duties) in any manner revealing the individual's or employing unit's identity, but any claimant or his legal representative at a hearing before the commission or appeal tribunal shall be supplied with information from such records to the extent necessary for the proper presentation of his claim. Any employee or member of the commission who violates any provision of this section shall be fined not less than twenty dollars nor more than two hundred dollars, or imprisoned for not longer than 90 days, or both.

Reports as to persons employed.

Information confidential.

Claimant entitled to information.

Penalty for violation of this section by member or employee of commission.

(f) **Oaths and Witnesses.** In the discharge of the duties imposed by this act, the chairman of an appeal tribunal and any duly authorized representative or member of the commission shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with a disputed claim or the administration of this act.

Oaths, depositions, certificates and subpoenas.

(g) **Subpoenas.** In case of contumacy by, or refusal to obey a subpoena issued to any person, any court of this State within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the chairman of an appeal tribunal, the commission or any duly authorized representative of any of them shall have jurisdiction to issue to such person an order requiring such person to appear before the chairman of an appeal tribunal, a commissioner, the commission, or any

Court may order person to obey subpoena.

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duly authorized representative of any of them there to produce evidence if so ordered or there to give testimony touching the matters under investigation or in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof. Any person who shall without just cause fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, and other records, if it is in his power to do so, in obedience to a subpoena of the commission, the chairman of an appeal tribunal or any duly authorized representative of any of them shall be punished by a fine of not more than $200 or by imprisonment for not longer than sixty days, or by both such fine and imprisonment, and each day such violation continues shall be deemed to be a separate offense.

Disobedience of court order punishable as contempt.

Penalty for disobedience of subpoena.

(h) **Protection Against Self-Incrimination.** No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, and other records before the commission, the chairman of an appeal tribunal or any duly authorized representative of any of them or in obedience to the subpoena of the commission or any member thereof or any duly authorized representative of the commission in any cause or proceeding before the commission, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

Witness not excusable on ground of self-incrimination.

Exemption from prosecution.

Exception as to perjury.

(i) **State-Federal Cooperation.** In the administration of this act, the commission shall cooperate to the fullest extent consistent with the provisions of this act, with the social security board, created by the social security act, approved August 14, 1935, as amended; shall make such reports, in such form and containing such information as the social security board may from time to time require, and shall comply with such provisions as the

The commission to cooperate with social security board.

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social security board may from time to time find necessary to assure the correctness and verification of such reports; and shall comply with the regulations prescribed by the social security board governing the expenditures of such sums as may be allotted and paid to this state under Title III of the social security act for the purpose of assisting in the administration of this act.

Information to be furnished U. S. Agencies.

Upon request therefor the commission shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under this act.

Arrangements as to individuals performing services in this and other states.

(j) **Reciprocal Benefit Arrangements.** The commission is hereby authorized to enter into arrangements with the appropriate agencies of other states or the federal government, whereby individuals performing services in this and other states for a single employing unit under circumstances not specifically provided for in this act, or under similar provisions of the unemployment compensation laws of such other states, shall be deemed to be engaged in employment performed entirely within this State or within one of such other states and whereby potential rights to benefits accumulated under the unemployment compensation laws of several states or under such a law of the federal government, or both, may constitute the basis for the payment of benefits through a single appropriate agency under terms which the commission finds will be fair and reasonable as to all affected interests, and will not result in any substantial loss to the fund.

EMPLOYMENT SERVICE

Montana state employment service.

Section 12. (a) **State Employment Service.** The commission shall create a division to be known as the Montana state employment service which division shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of this act, and for the purpose of performing such duties as are within the purview of the act of congress entitled: "An act to provide for the establishment of a national employment system and for cooperation with the states in the promotion of such

Duties.

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system, and for other purposes", approved June 6, 1933 [48 Stat. 113; U. S. C., Title 29, Sec. 49 (c)], as amended. The said division shall be administered by a full time salaried director, who shall be charged with the duty to cooperate with any official or agency of the United States having powers or duties under the provisions of the said act of congress, as amended, and to do and perform all things necessary to secure to this State the benefits of the said act of congress, as amended, in the promotion and maintenance of a system of public employment offices. The provisions of the said act of congress, as amended, are hereby accepted by this State, in conformity with section 4 of said act, and this State will observe and comply with the requirements thereof. The Montana state employment service is hereby designated and constituted the agency of this State for the purpose of said act. The commission is directed to appoint the director, other officers, and employees of the Montana state employment service. Such appointments shall be made in accordance with regulations prescribed by the director of the United States employment service.

Duty of director.

Acceptance of act of congress approved June 6, 1933.

Appointment of personnel.

(b) **Financing.** All moneys received by this State under the said act of congress, as amended, shall be paid into the special "employment service account" in the unemployment compensation administration fund, and said moneys are hereby made available to the Montana state employment service to be expended as provided by this section and by said act of congress. For the purpose of establishing and maintaining free public employment offices, the Montana state employment service is authorized to enter into agreements with any political subdivisions of this State or with any private, nonprofit organization, and as a part of any such agreement the commission may accept moneys, services, or quarters as a contribution to the employment service account.

Disposition of moneys received under said act of congress.

Free public employment offices.

May enter into agreements.

May accept contributions to the employment service account.

UNEMPLOYMENT COMPENSATION ADMINISTRATION FUND

Section 13. (a) **Special Fund.** There is hereby created in the state treasury a special fund to be known as the unemployment compensation administration fund. All moneys which are deposited or paid into this fund are hereby appropriated and made available to the com-

Unemployment compensation administration fund created.

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mission. All moneys in this fund shall be expended solely for the purpose of defraying the cost of the administration of this act, and for no other purpose whatsoever. The fund shall consist of all moneys appropriated by this state, and all moneys received from the United States of America, or any agency thereof, including the social security board and the United States employment service, or from any other source, for such purpose. All moneys in this fund shall be deposited, administered, and disbursed, in the same manner and under the same conditions and requirements as is provided by law for other special funds in the state treasury. Any balances in this fund shall not lapse at any time, but shall be continuously available to the commission for expenditure consistent with this act. The state treasurer shall give a separate and additional bond conditioned upon the faithful performance of his duties in connection with the unemployment compensation administration fund in an amount to be fixed by the commission and in a form prescribed by law or approved by the attorney general. The premiums for such bond and the premiums for the bond given by the treasurer of the unemployment compensation fund under section 9 of this act, shall be paid from the moneys in the unemployment compensation administration fund.

Of what moneys it consists.

How administered.

State treasurer to give bond.

(b) **Employment Service Account.** A special "employment service account" shall be maintained as a part of the unemployment compensation administration fund for the purpose of maintaining the public employment offices established pursuant to Section 12 of this act and for the purpose of cooperating with the United States employment service. There is hereby appropriated to the employment service account of the unemployment compensation administration fund, from any money in the state treasury not otherwise appropriated, for the period beginning July 1st, 1937, and ending June 30, 1938, the sum of $13,021.26 and, for the period beginning July 1st, 1938, and ending June 30, 1939, the sum of $13,021.26. In addition, there shall be paid into such account the moneys designated in Section 12 (b) of this act, and such moneys as are apportioned for the purposes of this account from any moneys received by this State under Title III of the social security act, as amended.

Employment service account.

Appropriation.

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COLLECTION OF CONTRIBUTIONS

Interest on past due contributions.

Section 14. (a) **Interest on Past Due Contributions.** Contributions unpaid on the date on which they are due and payable, as prescribed by the commission, shall bear interest at the rate of 1 per centum per month from and after such date until payment plus accrued interest is received by the commission. Interest collected pursuant to this subsection shall be paid into the unemployment compensation fund.

Civil actions to collect contributions.

(b) **Collection.** If, after due notice, any employer defaults in any payment of contributions or interest thereon, the amount due shall be collected by civil action in the name of the commission, and the employer adjudged in default shall pay the costs of such action. Civil actions brought under this section to collect contributions or interest thereon from an employer shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this act and cases arising under the workmen's compensation law of this State.

Priority of contribution in judicial distribution of employer's assets.

(c) **Priorities Under Legal Dissolutions or Distributions.** In the event of any distribution of an employer's assets pursuant to an order of any court under the laws of this State, including any receivership, assignment for benefit of creditors, adjudicated insolvency, composition, or similar proceeding, contributions then or thereafter due shall be paid in full prior to all other claims except taxes and claims for wages of not more than $250 to each claimant, earned within six months of the commencement of the proceeding. In the event of an employer's adjudication in bankruptcy, judicially confirmed extension proposal, or composition, under the federal bankruptcy act of 1898, as amended, contributions then or thereafter due shall be entitled to such priority as is provided in Section 64 (b) of that act [U. S. C., TitleII, Sec. 104 (b)], as amended.

Time and manner of making adjustment and refund.

(d) **Refunds.** If not later than one year after the date on which any contributions or interest thereon became due, an employer who has paid such contributions or interest thereon shall make application for an adjustment thereof in connection with subsequent contribution payments, or for a refund thereof because such

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adjustment cannot be made, and the commission shall determine that such contributions or interest or any portion thereof was erroneously collected, the commission shall allow such employer to make an adjustment thereof, without interest, in connection with subsequent contribution payments by him, or if such adjustment cannot be made the commission shall refund said amount, without interest, from the fund. For like cause and within the same period adjustment or refund may be so made on the commission's own initiative.

PROTECTION OF RIGHTS AND BENEFITS

Waiver of rights under act void.

Agreement by employee to pay employer's contributions void.

Deduction from wages forbidden.

Penalty for violation.

Section 15. (a) **Waiver of Rights Void.** Any agreement by an individual to waive, release, or commute his rights to benefits or any other rights under this act shall be void. Any agreement by any individual in the employ of any person or concern to pay all or any portion of an employer's contributions, required under this act from such employer, shall be void. No employer shall directly or indirectly make or require or accept any deduction from wages to finance the employer's contributions required from him, or require or accept any waiver of any right hereunder by an individual in his employ. Any employer or officer or agent of an employer who violates any provision of this subsection shall, for each offense, be fined not more than $1,000 or be imprisoned for not more than six months, or both.

Claimant may be represented by counsel or agent.

Fees subject to approval by the commission.

Penalty for violation.

(b) **Limitation of Fees.** No individual claiming benefits shall be charged fees of any kind in any proceeding under this act by the commission or its representatives or by any court or any officer thereof. Any individual claiming benefits in any proceeding before the chairman of an appeal tribunal or the commission or its representatives or a court may be represented by counsel or other duly authorized agent; but no such counsel or agents shall either charge or receive for such services more than an amount approved by the commission. Any person who violates any provision of this subsection shall, for each such offense, be fined not more than $500, or imprisoned for not more than six months, or both.

Right to benefit not assignable.

(c) **No Assignment of Benefits; Exemptions.** Any assignment, pledge, or encumbrance of any right to benefits which are or may become due or payable under this

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act shall be void; and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debt; and benefits received by any individual, so long as they are not mingled with other funds of the recipient, shall be exempt from any remedy whatsoever for the collection of all debts except debts incurred for necessaries furnished to such individual or his spouse, or dependents during the time when such individual was unemployed. Any waiver of any exemption provided for in this subsection shall be void.

Benefits exempt from execution except for necessaries.

Waiver of exemption void.

PENALTIES

Section 16. (a) Whoever makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, to obtain or increase any benefit or other payment under this act, either for himself or for any other person, shall be punished by a fine of not more than $500 or by imprisonment for not longer than thirty days in the county jail or by both such fine and imprisonment; and each such false statement or representation or failure to disclose a material fact shall constitute a separate offense.

Penalty for false statement or wilful non-disclosure.

(b) Any employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto, or to avoid becoming or remaining subject hereto or to avoid or reduce any contribution or other payment required from an employing unit under this act, or who wilfully fails or refuses to make any such contributions or other payment or to furnish any reports required hereunder or to produce or permit the inspection or copying of records as required hereunder, shall be punished by a fine of not more than $500 or by imprisonment for not longer than sixty days in the county jail or by both such fine and imprisonment; and each such false statement or representation or failure to disclose a material fact, and each day of such failure or refusal shall constitute a separate offense.

Penalty for violation by employer or agent.

(c) Any person who shall wilfully violate any provision of this act or any order, rule or regulation thereunder, the violation of which is made unlawful or the

Penalty for violation of other provisions of act.

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observance of which is required under the terms of this act, and for which a penalty is neither prescribed herein nor provided by any other applicable statute, shall be punished by a fine of not more than $500 or by imprisonment for not longer than sixty days in the county jail or by both such fine and imprisonment, and each day such violation continues shall be deemed to be a separate offense.

Benefits wrongfully received.

(d) Any person who, by reason of the nondisclosure or misrepresentation by him or by another, of a material fact (irrespective of whether such nondisclosure or misrepresentation was known or fraudulent) has received any sum as benefits under this act while any conditions for the receipt of benefits imposed by this act were not fulfilled in his case, or while he was disqualified from receiving benefits, shall, in the discretion of the commission, either be liable to have such sum deducted from any future benefits payable to him under this act or shall be liable to repay to the commission for the unemployment compensation fund, a sum equal to the amount so received by him, and such sum shall be collectible in the manner provided in this act for the collection of past due contributions.

REPRESENTATION IN COURT

The commission may be represented by attorney or by the attorney general.

Section 17. (a) In any civil action to enforce the provisions of this act the commission and the State may be represented by any qualified attorney who is employed by the commission and is designated by it for this purpose or at the commission's request, by the attorney general.

Criminal actions hereunder to be prosecuted by attorney general.

(b) All criminal actions for violation of any provision of this act, or of any rules or regulations issued pusuant thereto, shall be prosecuted by the attorney general of the state; or, at his request and under his direction, by the prosecuting attorney of any county in which the employer has a place of business or the violator resides.

NONLIABILITY OF STATE

Liability of the state and the commission limited to moneys in fund.

Section 18. Benefits shall be deemed to be due and payable under this act only to the extent provided in this act and to the extent that moneys are available therefor to the credit of the unemployment compensation fund, and neither the state nor the commission shall be liable for any amount in excess of such sums.

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DEFINITIONS

Section 19. As used in this act, unless the context clearly requires otherwise: Definitions.

(a) (1) "Annual pay roll" means the total amount of wages payable by an employer (regardless of the time of payment) for employment during a calendar year. "Annual pay roll."

(2) "Average annual pay roll" means the average of the annual pay rolls of an employer for the last three or five preceding calendar years, whichever average is higher. "Average annual pay roll."

(b) "Benefits" means the money payments payable to an individual, as provided in this act, with respect to his unemployment. "Benefits."

(c) "Base period" means the period beginning with the first day of the nine completed calendar quarters immediately preceding the first day of an individual's benefit year and ending with the last day of the next to the last completed calendar quarter immediately preceding any week with respect to which benefits are payable. "Base period."

(d) "Benefit year", with respect to any individual, means the fifty-two-consecutive-week period beginning with the first day of the week with respect to which benefits are first payable to him, and thereafter the fifty-two-consecutive-week period beginning with the first day of the first week with respect to which benefits are next payable to him after the termination of his last preceding benefit year. "Benefit year."

(e) "Calendar quarter" means the period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31, excluding however, any calendar quarter or portion thereof which occurs prior to January 1, 1937, or the equivalent thereof as the commission may by regulation prescribe. "Calendar quarter."

(f) "Commission" means the unemployment compensation commission established by this act. "Commission."

(g) "Contributions" means the money payments to the state unemployment compensation fund required by this act. "Contributions."

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"Employing unit."

(h) "Employing unit" means any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1936, had in its employ one or more individuals performing services for it within this state. All individuals performing services within this state for any employing unit which maintains two or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of this act. Each individual employed to perform or to assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for all the purposes of this act, whether such individual was hired or paid directly by such employing unit or by such agent or employee, provided the employing unit had actual or constructive knowledge of the work.

Separate establishments.

Agent.

"Employer."

(i) "Employer" means:

Minimum employment requirements.

(1) Any employing unit which for some portion of a day in each of 20 different weeks, whether or not such weeks are or were consecutive, within either the current or the preceding calendar year, has or had in employment, one or more individuals (irrespective of whether the same individuals are or were employed in each such day);

Successor of former employer.

(2) Any individual or employing unit which acquired the organization, trade or business, or substantially all the assets thereof, of another which at the time of such acquisition was an employer subject to this act;

Successor of employer who was not subject to act.

(3) Any individual or employing unit which acquired the organization, trade or business, or substantially all the assets thereof, of another employing unit (not an employer subject to this act) and which, if subsequent to such acquisition it were treated as a single unit with such other employing unit would be an employer under paragraph (1) of this subsection;

(4) Any employing unit which, having become an employer under paragraph (1), (2), or (3), has not, under Section 8, ceased to be an employer subject to this act; or

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(5) For the effective period of its election pursuant to Section 8 (c) any other employing unit which has elected to become fully subject to this act.

"Employment."

(j) (1) "Employment" subject to other provisions of this subsection means service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied.

(2) The term "employment" shall include an individual's entire service, performed within or both within and without this state if:

(A) The service is localized in this state; or

When service is not wholly within state.

(B) The service is not localized in any state but some of the service is performed in this state and (i) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this state; or (ii) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this State.

When service is entirely without state.

(3) Service not covered under paragraph (2) of this subsection, and performed entirely without this state, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to this act if the individual performing such services is a resident of this State and the commission approves the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this act.

When service deemed localized within a state.

(4) Service shall be deemed to be localized within a state if

(A) The service is performed entirely within such state; or

(B) The service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the State, for example, is temporary or transitory in nature or consists of isolated transactions.

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Services for wages.

(5) Services performed by an individual for wages shall be deemed to be employment subject to this act unless and until it is shown to the satisfaction of the commission that:

Freedom from control or direction.

(A) Such individual has been and will continue to be free from control or direction over the performance of such services, both under his contract and in fact; and

Service outside usual course and places of business.

(B) Such service is either outside the usual course of the business for which such service is performed, or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and

Engaged independently.

(C) Such individual is customarily engaged in an independently established trade, occupation, profession or business.

Not included in "employment."

(6) The term "employment" shall not include:

Agricultural labor.

(A) Agricultural labor;

Domestic service.

(B) Domestic service in a private home;

Maritime service.

(C) Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

Service by member of family.

(D) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;

Service in the employ of religious, charitable or other non-profit enterprises.

(E) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private share holder or individual;

Service of state or subdivision.

(F) Service performed in the employ of this state, or of any political subdivision thereof, or of any instrumentality of this state or its political subdivisions;

Service of United States another state or subdivision.

(G) Service performed in the employ of any other state or its political subdivisions, or of the United States government, or of an instrumentality of any other state or states or their political subdivisions or of the United States.

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Service covered by act of congress.

(H) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of congress; provided that the commission is hereby authorized and directed to enter into agreements with the proper agencies under such act of congress, which agreements shall become effective ten days after publication thereof in the manner in Section 11 (b) of this act for general rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this act, acquired rights to unemployment compensation under such act of congress, or who have, after acquiring potential rights to unemployment compensation under such act of congress, acquired rights to benefits under this act.

Commission to agree with U. S. agencies for reciprocal treatment.

"Employment office."

(I) "Employment office" means a free public employment office, or branch thereof, operated by this State or maintained as a part of a state-controlled system of public employment offices.

"Fund."

(J) "Fund" means the unemployment compensation fund established by this act, to which all contributions required and from which all benefits provided under this act shall be paid.

"Total unemployment."

(K) "Total unemployment":

(1) An individual shall be deemed "totally unemployed" in any week during which he performs no services and with respect to which no wages are payable to him.

When week of unemployment commences.

(2) An individual's week of unemployment shall be deemed to commence only after his registration at an employment office, except as the commission may by regulation otherwise prescribe.

"State."

(L) "State" includes, in addition the states of the United States of America, Alaska, Hawaii, and the District of Columbia.

"Week."

(M) "Week" means such period of seven consecutive calendar days, as the commission may by regulations prescribe.

"Unemployment compensation administration fund."

(N) "Unemployment compensation administration fund" means the unemployment compensation administration fund established by this act, from which administrative expenses under this act shall be paid.

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"Wages." (O) "Wages" means all remuneration payable for personal services, including commissions and bonuses and the cash value of all remuneration payable in any medium other than cash. The reasonable cash value of remuneration payable in any medium other than cash, shall be estimated and determined in accordance with rules prescribed by the commission.

Remuneration other than cash.

"Weekly benefit amount." (P) "Weekly Benefit Amount." An individual's "weekly benefit amount" means the amount of benefits he would be entitled to receive for one week of total unemployment.

SAVING CLAUSE

Act may be amended or repealed. Section 20. The legislature reserves the right to amend or repeal all or any part of this act at any time; and there shall be no vested private right of any kind against such amendment or repeal. All the rights, privileges, or immunities conferred by this act or by acts done pursuant thereto shall exist subject to the power of the legislature to amend or repeal this act at any time.

Invalidity of part shall not affect validity of remaining portions of act. Section 21. If any section, subsection, sentence, clause, or a phrase of this act is for any reason held unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislative assembly declares that it would have passed this act and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more section, subsection, sentence, clause or phrase be declared unconstitutional, the same being necessary to the welfare of the State of Montana, and the political subdivisions thereof by reason of the existence of an extraordinary emergency.

Act shall terminate upon termination of federal social security act. Section 22. **Act to Be in Effect.** If Title III or Title IX of the "federal social security act" is declared unconstitutional, or in any way becomes inoperative, then this act shall terminate and cease and have no force and effect as of the date when said title or titles of said act is declared unconstitutional, or becomes inoperative.

Act shall terminate upon non-approval by federal social secruity board. Section 23. **Approval by Social Security Board.** If the federal social security board shall fail to approve this act, the same shall immediately terminate and have no force and effect.

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Section 24. **Effective Date.** The legislature hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health and safety; that an emergency exists, and that this act, therefore, shall take effect and be in force from and after its passage and approval.

Declaration of emergency.

Approved March 16, 1937.

CHAPTER 138

An Act to Amend Section 1760 of the Revised Codes of Montana 1935, Relating to Registration of Motor Vehicles, Fees, Disposal of Proceeds, Fee for Half Year, Dealers' Registration and Transfer Thereof, and Exempting Public Owned Vehicles; and Providing Fees for Tractors, Defining Same, and Fees for Trailers and Semi-trailers.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1760 of the Revised Codes of Montana 1935, be, and the same is hereby, amended to read as follows:

Amending clause.

Section 1760. Registration fees shall be paid upon registration or re-registration of motor vehicles, trailers, semi-trailers and dealers in motor vehicles or automobile accessories in accordance with this act, as follows:

Registration fees.

Dealers in motor vehicles other than motorcycles, a minimum fee of thirty dollars ($30.00) which shall entitle such dealer to two (2) sets of number plates, and five dollars ($5.00) additional fee for each additional set of number plates up to six (6) sets, and two dollars ($2.00) additional fee for each additional set of number plates, as may be applied for by such dealer; provided, that each dealer be required to furnish the registrar of motor vehicles a statement showing the makes of motor vehicles handled by him, and the total number of each make sold by him during the preceding year, and that he not be issued a license unless he so conforms;

Amount.

Dealers in motor vehicles.

Statement by dealer.

Dealers in motorcycles, fifteen dollars ($15.00);

Motorcycles.

Dealers in automobile accessories, except automobile dealers, ten dollars ($10.00);

Accessories.

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Vehicles weighing 2850 pounds or under.

Motor vehicles, weighing twenty-eight hundred and fifty (2850) pounds, or under, other than motor trucks, five dollars ($5.00);

Weighing over 2850 pounds.

Motor vehicles, weighing over twenty-eight hundred and fifty (2850) pounds, other than motor trucks, ten dollars ($10.00);

Electrically driven vehicles.

Electrically driven passenger vehicles, ten dollars ($10.00);

Motorcycles.

All motorcycles, two dollars ($2.00);

Tractors or trucks.

Tractors and/or trucks of one (1) ton capacity or under, five dollars ($5.00);

Same, over one ton capacity.

Tractors and/or trucks over one (1) ton and up to and including one and one-half (1½) tons capacity, ten dollars ($10.00);

Same, over 1½ tons.

Tractors and/or trucks over one and one-half (1½) tons and up to and including two (2) tons capacity, twenty-two dollars and fifty cents ($22.50);

Same, over 2 tons.

Tractors and/or trucks over two (2) tons and less than three (3) tons capacity, thirty-seven dollars and fifty cents ($37.50);

Same, over 3 tons.

Tractors and/or trucks of three (3) tons and less than five (5) tons capacity, sixty dollars ($60.00);

Same, over 5 tons.

Tractors and/or trucks of five (5) tons capacity and over, two hundred dollars ($200.00); provided that tractors shall not be construed as meaning farm tractors used

Farm tractors.

on farms or tractors used solely in logging operations but only such tractors as are a part of a unit to haul over the highways;

Busses.

Busses shall be classed as motor trucks and licensed accordingly;

Trailers, over 1,000 pounds.

Trailers and semi-trailers, over one thousand (1000) pounds and not over one (1) ton, two dollars ($2.00);

Trailers, according to capacity.

Trailers and semi-trailers, over one (1) ton and less than two (2) ton capacity fifteen dollars ($15.00); over two (2) ton and less than three (3) ton capacity, twenty dollars ($20.00); over three (3) ton and less than four (4) ton capacity, twenty-five dollars ($25.00); over four (4) ton and less than five (5) ton capacity, thirty dollars ($30.00); over five (5) ton capacity, two hundred dollars

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($200.00); provided that trailers owned by farmers and used in the transportation of his own livestock and his own farm produce with a five ton (5) capacity or more, shall be excluded from such provisions and the fee shall be five dollars ($5.00). And be it further provided that trailers used exclusively in the transportation of logs in the forest or in the transportation of oil and gas well machinery, road machinery and bridge material exclusively, new and second hand, and trailers used exclusively for the transportation of road machinery and bridge materials, shall pay a fee of fifteen dollars ($15.00) annually, regardless of size or capacity.

Proviso, as to trailers owned by farmers.

Trailers for logs and machinery.

All rates to be twenty-five per cent (25%) higher for motor vehicles, trailers and semi-trailers, when not equipped with pneumatic tires;

Rates as affected by tires.

Bicycles with motor attachment, one dollar ($1.00).

Motor bicycles.

Tractors, as specified in this section, shall mean any motor vehicle used for towing a trailer or semi-trailer.

"Tractors."

All license or registration fees collected by the county treasurer of the county in which any motor vehicle is registered shall be credited to the motor vehicle license fund of said county. The cost of making and shipping license plates and identification marks, certificates and other expenses of operating the motor vehicles department of the State of Montana shall be prorated by the registrar of motor vehicles among the counties of the State in proportion to the number of cars registered in each county, and he shall bill each county therefor, by verified claim, and each county shall thereupon pay the amount so charged out of said motor vehicle license fund; provided, however, that each county shall receive credit for its pro rata share of any fees or license money paid to the registrar of motor vehicles. The remainder of the funds in said motor vehicle license fund shall be used as follows:

Fees credited to motor vehicle license fund.

Proration of costs.

(a) Fifty per cent (50%) of the net fees derived from the registration of motor vehicles, the owners of which reside within the boundaries of any incorporated city of the State of Montana, having a population of thirty-five thousand (35,000), or more, according to federal census of 1930, shall be held by county treasurer and segregated from other county road funds and be designated as "city road fund", to be used in city from which fees

Disposition of remainder of funds.

"City road fund."

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were derived for the construction of permanent streets within the incorporated limits of such city.

(b) The fees held in the city road fund, as hereinabove provided, shall be used by the city council of such city having the population of thirty-five thousand (35,000), or more, according to the federal census of 1930, only for the construction of permanent highways and streets within the boundaries of such incorporated city. Provided, that all construction of public highways and streets, the cost of which is to be paid out of the fund derived from the license fees as herein provided, shall be under the supervision of the county surveyor of the county within whose boundaries such city is situated, subject to the control of the said city council and surveyor to designate the public highway or street upon which the work is to be done, and the type of pavement to be used, and provided further, that the cost of supervision of the county surveyor shall not exceed five per cent (5%) of the cost of said work.

To what use applied.

Supervision by county surveyor.

Disposition of net fees.

(c) The net fees derived from the registration of motor vehicles shall be by the registrar of motor vehicles transmitted to, and paid over to the county treasurer of the county from which the registration fee came, such fees excepting apportionment to city road fund, to be used by said county for the construction, repair and maintenance of all public highways, except state and federal highways, within the boundaries of said county, including city streets forming component parts of arterial highways within the corporate cities of less population than thirty-five thousand (35,000), according to the federal census of 1930, within the boundaries of said county.

Part-year registration fee.

If any dealer, or motor vehicle, or trailer, or semi-trailer is originally registered six (6) months after the time of registration as set by law, the registration fee for the remainder of such year shall be one-half (½) of the regular fee above given.

Branch establishments.

A dealer in motor vehicles or automobile accessories who shall maintain more than one (1) place of business or who shall maintain any branch establishment or establishments, must register and pay a registration fee for each such place of business or establishment.

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Transfer of registration certificate.

A registered dealer, who may sell or dispose of his entire business to any other person, may have his certificate of registration transferred to such purchaser upon filing with the registrar of motor vehicles a statement containing the name of the registered dealer, the number under which such dealer is registered, the name of the purchaser, and the location of the place of business so sold. Upon the filing of such statement, accompanied by a filing fee of one dollar ($1.00), the registrar of motor vehicles shall note upon the registration record of such dealer the change of ownership. But no certificate of registration can be transferred unless the entire business of the dealer holding such certificate of registration be sold and disposed of, and no such certificate of registration can be transferred to any person other than the purchaser of such business.

Filing fee.

Limitation upon transfers.

Act not applicable to vehicles owned by United States, etc.

The provisions of this act with respect to the payment of registration fees shall not apply to or be binding upon motor vehicles, trailers or semi-trailers or tractors owned or controlled by the United States of America or any state, county or city, but in all other respects the provisions of this act shall be applicable to and binding upon motor vehicles, tractors, trailers and semi-trailers.

Validity of act.

Section 2. If any clause, sentence, paragraph, section or any part of this act shall be declared and adjudged to be invalid and/or unconstitutional, such invalidity or unconstitutionality shall not affect, invalidate or nullify the remainder of this act.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 16, 1937.

CHAPTER 139

An Act to Amend Section 4916 of the Revised Codes of Montana, 1935, Relating to the Fees of Sheriffs.

Be it enacted by the Legislative Assembly of the State of Montana:

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Amending clause.

Section 1. That Section 4916 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Service of summons.

"Section 4916. **Fees of Sheriff.** For the service of summons and complaint on each defendant, one dollar ($1.00);

Writ of attachment.

For levying and serving each writ of attachment of execution on real or personal property, one dollar ($1.00);

Arrest.

For service of attachment on the body or order of arrest on each defendant, one dollar ($1.00);

Affidavit.

For the service of affidavit, order, and undertaking in claim and delivery, one dollar ($1.00);

Subpoena.

For serving a subpoena, twenty-five cents (25c) for each witness summoned;

Writ of possession.

For serving writ of possession or restitution, two dollars ($2.00);

Trial of right of property.

For trial of the right of property or damages, including all services except mileage, three dollars ($3.00);

For taking bond.

For taking bond or undertaking in any case authorized by law, one dollar ($1.00);

Notices.

For serving every notice, rule or order, one dollar ($1.00), for each person served;

Copy of writ.

For copy of any writ, process or other paper when demanded or required by law, twenty cents (20c) for each folio;

For advertising.

For advertising any property for sale on execution or under any judgment or order of sale, exclusive of cost of publication, one dollar ($1.00);

As keeper of property.

For the expense in taking and keeping possession of and preserving property under attachment, execution or other process, such sum as the court or judge may order, not to exceed the actual expense incurred, and no keeper must receive to exceed two dollars and fifty cents ($2.50) per day and no keeper must be employed without an order of court, nor must he be so employed unless the property is of such character as to need the personal attention and supervision of a keeper. No property shall

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be placed in charge of a keeper if it can be safely and securely stored, or where there is no reasonable danger of loss.

Mileage.

In addition to the fees above specified, the sheriff shall receive for each mile actually traveled, in serving any writ, process, order or other paper, including a warrant of arrest, or in conveying a person under arrest before a magistrate or to jail, only his actual expenses when such travel is made by railroad, and when travel is other than by railroad he shall receive eight and one-half cents (8½c) per mile for each mile actually traveled by him both going and returning, and the actual expenses incurred by him in conveying a person under arrest before a magistrate or to jail, and he shall receive the same mileage and his actual expenses for the person conveyed or transported under order of court within the county, the same to be in full payment for transporting and dieting such persons during such transportation; provided that where more than one or more persons are transported by the sheriff or when one or more papers are served on the same trip made for the transportation of one or more prisoners, but one mileage shall be charged.

Expenses.

Conveying person under arrest.

Proviso, as to more than one such person.

Delivery of prisoners.

Provided further, that this act shall not apply to the delivery of prisoners at the state prison or at the reform school, or insane persons to the state insane asylum, for which he shall receive the actual expense incurred as provided by Section 4885 of this code. Nor shall this act apply to trips made for the return of fugitives apprehended and arrested outside the county for which the sheriff shall receive the actual necessary expenses incurred in going for and returning with such fugitive. But no mileage must be allowed on an attachment, order of arrest, order for delivery of personal property, or any other order, notice or paper, when the same accompanies the summons, and the service thereof may be made at the time of the service of the summons, unless for the distance actually traveled beyond that required to serve the summons. When two or more papers are served on the same person at the same time, or when any paper or papers are served on more than one person on the same trip, but one mileage must be allowed or charged, and in the service of subpoenas, but one mileage must be charged when the persons named therein live in the same place or in the same direction, but mileage must be charged for the longest distance actually traveled.

Return of fugitives.

Mileage where summons and other papers served at same time.

Where two or more persons served on one trip.

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Receipt of write or other papers.

Two officers traveling in same automobile.

Any writ, order or other paper for service, must be received at any place in the county where a sheriff or a deputy is found, and mileage must be computed from such place, but if papers are delivered for service away from the county seat, all necessary copies thereof must be furnished for service. When two or more officers travel in the same automobile in the discharge of any duty but one mileage shall be allowed."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 16, 1937.

CHAPTER 140

An Act to Assist in the Establishment of Adult Education Schools.

Be it enacted by the Legislative Assembly of the State of Montana:

Use of school rooms for adult education classes.

Section 1. The board of trustees of any school district or of any county high school is authorized to permit the use of school rooms for adult education schools or classes for all adults sixteen years of age or over.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 16, 1937.

CHAPTER 141

An Act Creating the Montana State Forest and Conservation Experiment Station and Providing for Its Organization; Defining Its Duty and Authority, and Generally Relating to Its Organization, Functions, Management and Duties.

Be it enacted by the Legislative Assembly of the State of Montana:

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Montana forest and conservation experiment station.

Section 1. There is hereby established in the Montana state university, forestry school, a station to be known as the Montana forest and conservation experiment station, which shall be under the direction of the state board of education.

Director.

Section 2. The dean of the forestry school, whoever shall hold that office from time to time, shall be the director of said Montana forest and conservation experiment station. The state board of education shall have the power and it shall be its duty to appoint or designate such assistants and employees as may be necessary, and to fix the compensation of all persons connected with said station.

Assistants and employees.

Purposes.

Section 3. It shall be the purpose of this station:

To study resources.

1st. To study the forest and forest land resources of the State to the end that the State and its citizens may attain the highest economic and social benefits from the forest soils within the State and the influences and products flowing therefrom.

To study utilization of timber, etc.

2nd. To study the growth and the utilization of timber with special reference to their improvement and the widening of the markets available to the State.

Water conservation, etc.

3rd. To determine the relationship between the forest and water conservation and waterflow regulation; the forest and pasturage for domestic livestock and wild life; the forest and recreation and those other direct and indirect benefits that may be secured by the maintenance of or the establishment of forests or woodlands.

Wind breaks and shelter belts.

4th. To study and develop the establishment of windbreaks, shelter belts and woodlots on the farms of the State that moisture may be conserved thereby for the best production of agricultural crops and forage; for the prevention of soil wastage and erosion; to make the farm home more comfortable and to produce forest material for the use of the farmer and the stockman.

Findings of other agencies.

5th. To study the findings of other agencies that the information thus obtained may be used to improve the growth, management and utilization of the timber within the State and to protect it against damage by fire, insects, disease and other harmful agencies.

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Publications. 6th. To collect, to compile and to publish statistics relative to Montana forests and forestry and the influences flowing therefrom; to prepare and publish bulletins and reports, with the necessary illustrations and maps that the information collected by said station in forestry and in conservation may be made available for use and to distribute said information or material in such other ways as the state board of education may direct.

Library. 7th. To collect a library and bibliography of literature pertaining to or useful for the purpose of this act.

Logging and lumbering. 8th. To study logging, lumbering and milling operations and other operations dealing with the products of forest soils with special reference to their improvement; to investigate, and make tests of forest products produced or that may be produced within the State that markets may be improved thereby.

Other problems. 9th. To consider such other scientific and economic problems as, in the judgment of the state board of education, are of value to the people of the State.

Cooperation with other agencies. 10th. To cooperate with the other departments of the University of Montana, the state forester and the state board of land commissioners, the state fish and game commission, the state livestock commission and with other departments and branches of the state government when mutually beneficial, with private individuals and agencies; and to cooperate with the United States government and its branches as a land grant institution, or otherwise, in accordance with their regulations.

Field experiment stations. 11th. To establish such field experiment stations as in the judgment of the state board of education may be necessary. The state board of education is hereby

Acceptance of donations. authorized to accept, for and in behalf of the State of Montana, such gifts of land or other donations as may be made to the State for the purposes of this act.

Reports. Section 4. The state board of education may require such regular and special reports to be prepared as it deems necessary. Such regular reports and the special

Publication of. reports and bulletins, with proper illustrations and maps, shall be printed and distributed as the state board of education may direct, and as the interests of the State and of science and industry may demand.

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Section 5. The dean of the forestry school, the officers and employees of said station, appointed or assigned, and their assistants shall take an oath to perform all the services required of them under this act and to guard carefully all confidential information accumulated in the progress of their work; and to turn into the station as state property all correspondence, notes, illustrations, and data of any kind accumulated by them in performing the work of the station. Oath of office.

Section 6. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved March 16, 1937.

CHAPTER 142

An Act Providing Educational Opportunities for the Children of Soldiers, Sailors and Marines Who Were Killed in Action or Died During the World War.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of five thousand dollars ($5,000.00) is hereby appropriated out of money in the state treasury, not otherwise appropriated, for the purpose of creating and maintaining a "World War orphans' education fund" from which shall be paid in whole or in part the charges for the tuition, matriculation, board, room rent, books and supplies of such of the children of those who served in the World War and had a legal residence in this State at the time they were commissioned, warranted, enlisted, or inducted into the military or naval service of the United States and were either killed in action or died from other causes while in such service between April 6, 1917, and July 2, 1921, as are attending or may attend any of the state institutions of learning during the fiscal years of 1937 and 1938, providing any such child shall have entered such institution while between the ages of sixteen and twenty-one. Appropriation for world war orphans' education fund. Payments from.

Section 2. The state board of education shall determine the eligibility of all children who make application for the benefits provided for in this act and said board shall satisfy itself of the attendance of such children at any such institution and the accuracy of the charges Application for benefits.

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submitted to said board by the authorities of any such institution on account of attendance thereof of any such children.

Limitation of allotment.

Section 3. Said board shall determine the amount to be allotted to any such child, but in no event shall more than two hundred and fifty dollars ($250.00) be allotted to any such child in any fiscal year and the sums alloted shall be paid direct to the institution, upon due presentation of a claim therefor bearing the approval of the state board of education endorsed thereon.

Effective date.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 16, 1937.

CHAPTER 143

An Act Relating to Official Reports of State Officers and Their Admission in Evidence and the Rights of Adverse Parties in Respect Thereto, and to Make Uniform the Law in Relation Thereto.

Be it enacted by the Legislative Assembly of the State of Montana:

Official reports admissible as evidence.

Section 1. Written reports or findings of fact made by officers of this State, on a matter within the scope of their duty as defined by statute, shall, in so far as relevant, be admitted as evidence of the matters stated therein.

Copy to adverse party.

Section 2. Such report or finding shall be admissible only if the party offering it has delivered a copy of it or so much thereof as may relate to the controversy, to the adverse party a reasonable time before trial, unless in the opinion of the trial court the adverse party has not been unfairly surprised by the failure to deliver such copy.

Cross-examination.

Section 3. Any adverse party may cross-examine any person making such reports or findings or any person furnishing information used therein; but the fact that such testimony may not be obtainable shall not affect the admissibility of the report or finding, unless, in the opinion of the court, the adverse party is unfairly prejudiced thereby.

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Section 4. This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it. Interpretation of act.

Section 5. This act may be cited as the uniform official reports as evidence act. Short title.

Section 6. All acts or parts of acts which are inconsistent with the provisions of this act are hereby repealed. Repealing clause.

Section 7. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved March 16, 1937.

CHAPTER 144

An Act to Prevent Unfair Competition and to Prohibit Monopolies in the Business of Financing the Sale of Motor Vehicles in This State, by Declaring Unlawful and Void Certain Agreements, Contracts or Conditions Between Manufacturers or Wholesale Distributors, Whereby the Dealer Is Required to Finance Sales of Motor Vehicles Only Through a Designated Finance Company or Finance Agency; and Providing Penalties and Recoveries for the Violation of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. It is hereby declared to be the policy of this State that free and unrestrained competition shall prevail in the business of financing the purchase or sale of motor vehicles. Declaration of policy.

Section 2. (a) The term "person" as used in this act means any individual, firm, corporation, partnership, association, trustee, receiver, or assignee for the benefit of creditors. "Person."

(b) The terms "sell", "sold", "buy", and "purchase" as used in this act, include exchange, barter, gift, and offer or contract to sell or buy. "Sell."

(c) The term "manufacturer" shall mean any person, firm, corporation, partnership, or association engaged either directly or indirectly in the manufacture or wholesale distribution of motor vehicles. "Manufacturer."

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"Wholesale distributor." (d) The term "wholesale distributor" shall mean any person, firm, association, corporation or other organization engaged directly or indirectly in the sale or distribution of motor vehicles to agents or to dealers.

"Dealer." (e) The term "dealer" shall mean any person, firm, association or corporation or other organization of any kind, character or nature regularly engaged or intending to engage in the business of selling motor vehicles at retail within this State.

"Finance company." (f) "Finance company" or "finance agency" shall mean any person, firm, association, corporation or other organization engaged in the business of buying, selling, assigning, dealing, financing or acquiring conditional contracts of sale or engaged in the business of purchasing or acquiring promissory notes or any other form or evidences of indebtedness of sale, either secured by vendor's lien, conditional bill of sale, chattel mortgage, or leases arising out of the sale of motor vehicles in this State.

"Motor vehicle." (g) The term "motor vehicle" shall mean every self-propelled vehicle moving over the highways of this State, whether patented or unpatented.

Certain agreements as to financing prohibited. Section 3. It shall be unlawful for any manufacturer or wholesale distributor of motor vehicles to sell or enter into a contract for the sale of motor vehicles to any motor vehicle dealer on the condition or under an agreement, expressed or implied, that such dealer shall finance the purchase or sale of any motor vehicle or vehicles only through a designated finance company or finance agency.

Such agreement void. Any such condition, agreement or understanding is hereby declared to be against the public policy of the State and such condition, agreement or understanding shall be unlawful, void, and unenforceable, either as law or equity.

Threats as prima facie evidence. Section 4. Any threat, expressed or implied, made directly or indirectly to any dealer by any manufacturer, or by any person who is engaged in the business of financing the purchase or sale of motor vehicles and is affiliated with or controlled by any manufacturer, that such manufacturer will cease to sell, or will terminate or refuse to enter into a contract to sell motor vehicles to such dealer unless such dealer finances the purchase or sale of any such motor vehicle or vehicles only with or through

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a designated person, shall be presumed to be made at the direction of and with the authority of such manufacturer and shall be prima facie evidence of the fact that such manufacturer has sold or intends to sell such motor vehicle or vehicles on the condition or under the agreement prohibited by the provisions of this act.

Penalty.

Section 5. Any person who shall violate any of the provisions of this act, and any employee, agent, or officer of any such person who shall participate, in any manner, in making, enforcing or performing, or in aiding or abetting in the performance of any such contract, condition, agreement or understanding shall be deemed guilty of a crime and, upon conviction thereof, shall be punished for each offense by a fine of not more than five thousand dollars ($5,000.00) or by imprisonment in the penitentiary for not more than five years or in the county jail for not more than one year, or by both such fine and imprisonment.

Suit for injury to business or property.

Section 6. In addition to the criminal and civil penalties herein provided, any person who shall be injured in his business or property by any other person or corporation or association or partnership, by reason of anything forbidden or declared to be unlawful by this act, may sue therefor in any court having jurisdiction thereof in the county where the defendant resides or is found, or any agent resides or is found, or where service may be obtained, without respect to the amount in controversy, and recover twofold the damages by him sustained, and the costs of suit. Whenever it shall appear to the court before which any proceedings under this act may be pending, that the ends of justice require that other parties shall be brought before the court, the court may cause them to be made parties defendant and summoned, whether they reside in the county where such action is pending or not.

Validity of act.

Section 7. If any section, sub-section, sentence, clause, or phrase of this act is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act.

Approved March 16, 1937.

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CHAPTER 145

An Act to Amend Section 3676 of the Revised Codes of Montana, of 1935, Relating to the Creating, Altering or the Abandoning of Boundaries.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 3676 of the Revised Codes of the State of Montana, of 1935, be, and the same is hereby amended to read as follows:

"Section 3676. **Creating Fish and Game Preserves, Refuges, Sanctuaries, Rest Grounds, Closed Districts and Closed Seasons.** Preserves, refuges, sanctuaries, rest grounds, or closed districts made or created by said commission, and any land or water areas or portions thereof, closed by said commission, shall be conspicuously posted for a period of twenty (20) days, with posters setting forth their purposes and the penalties for violating the orders, rules and regulations of the state fish and game commission applicable to them. Not less than twenty (20) days before any fish and game district, closed district, preserve, refuge, sanctuary, rest ground, so created by said commission, or closure of land or water areas becomes effective, publication shall be made as provided in Section 3677 hereof of the boundaries of such fish and game district, closed district, preserve, refuge, sanctuary or rest ground, so created by said commission, such boundaries to be accurately designated by definite topographic monuments or public land survey. The hunting, pursuing, capturing, killing or taking of any fish or game animals or game birds or fur-bearing animals in violation of the rules, regulations or orders of the state fish and game commission governing any closed season, fish and game district, refuge, sanctuary, preserve, rest ground or closed land or water area, promulgated by said commission shall be punishable with the same penalties as provided for the violation of the state fish and game laws of this State, regarding closed seasons. All game preserves or refuges heretofore created are continued in full force and effect until such time as the same are changed by the commission in the manner herein designated; provided, that said commission shall have the right, power and authority when properly petitioned to alter, and change the boundaries of, or entirely do away

Posting preserves, refuges, etc.

Publication of boundaries.

Penalty for hunting, etc. in violation of rules.

Preserves, etc., continued in force.

Commission may change.

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with and abandon any preserve or refuge, excepting the Sun River game preserve, when in the opinion of said commission, it is to the best interest so to do."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 16, 1937.

CHAPTER 146

An Act to Amend Sections 3486, 3501 and 3504 of the Revised Codes of Montana of 1935, Relating to Health, Sanitation and Safety in Certain Coal Mines.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 3486 of the Revised Codes of Montana be and the same is hereby amended to read as follows:

Wash houses.

"Section 3486. **Mine Operators to Furnish Wash Houses for Employees.** It shall be the duty of the owner, operator, or superintendent of any coal mine in the State of Montana to provide a suitable building, not an engine or boiler house, for the use of the persons employed in such mine, for the purpose of washing themselves and changing their clothes when entering the mine and returning therefrom. The said building shall not be over eight hundred feet from and convenient to the principal entrance of such mine when practicable to do so. When not practicable to build the wash house within the said distance and still conform to the other requirements of this section, the state coal-mine inspector may give written permission to place the building at a greater distance from the mine than that herein specified, and the operator shall not be guilty of violation of this section. The said building shall be kept sanitary, maintained in good order, be properly lighted and heated, and supplied with good, clean cold and warm water, and be provided with facilities for persons to wash and a suitable locker or other facility for each person to be used by

Location.

Facilities.

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Liability of operator for fire loss.

him as a repository for his usual clothes and personal effects for the loss of which by fire, the operator shall be liable for the value of such aforementioned personal property to an amount not to exceed a total sum of twenty-five dollars ($25.00), for each individual employee. Provided this section does not apply where the number of employees does not exceed twelve (12) actually engaged in the mining of coal.

Malicious injury to building or appliances.

If any person shall maliciously injure or destroy, or cause to be injured or destroyed, the said building or any part thereof, or any of the appliances or fittings used for supplying light, heat, or water therein, or doing any act tending to the injury or destruction thereof, he shall be deemed guilty of an offense against this act and subject to a fine as hereinafter provided for."

Amending clause.

Section 2. That Section 3501 of the Revised Codes of Montana of 1935 be and the same is hereby amended to read as follows:

Ventilation of mines.

"Section 3501. **Ventilation of Mines.** The owner, operator, or superintendent of every coal mine, whether operated by shaft, slope or drift, shall provide and hereafter maintain ample means of ventilation for the circulation of air through the main entries, cross entries, and all other working places, to an extent that will dilute, carry off, and render harmless the noxious or dangerous gases generated in the mine, affording not less than one hundred and fifty cubic feet per minute for each and every person employed therein, and not less than six hundred cubic feet per minute for each and every animal in the mine; but in any mine, or section of a mine, where fire-damp is generated, not less than two hundred cubic feet of air per minute shall be provided for each person, or as much more as may be necessary to keep such section free from fire-damp. The quantities of air in circulation shall be ascertained with an anemometer or other efficient instrument; such measurement shall be made by the foreman or his assistants once a week at the inlet and outlet airways, and also at or near the face of each entry, and shall be recorded in the book kept for that purpose at the mine office. The quantity of air as provided for in this act for each person shall be conducted to each working place.

Measurement of air circulation.

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In rooms generating fire-damp, the volume of air required by this act shall be conducted to the face thereof by the use of brattice-cloth or other suitable means. Fire damp.

Section 3. That Section 3504 of the Revised Codes of Montana of 1935 be and the same is hereby amended to read as follows: Amending clause.

"Section 3504. **Cross-cuts and Brattices for Ventilation.** Cross-cuts between the entries, except where the same are within the confines of shaft bottom pillars, or are hereafter provided for, shall be made not exceeding sixty (60) feet apart, unless sufficient brattice is used to keep the air current up to the entry face, in which case they shall not exceed one hundred (100) feet apart. Where entries or rooms are being driven by entry driving machines, or any other mechanical loading device, or where local mechanical methods of ventilation are installed to furnish air to the workmen at the face, cross-cuts may be driven at not exceeding three hundred (300) feet apart, provided that brattice, tubing or some other device is used sufficient to give at the face twice the amount of air per man and animal provided for in Section 3501, and to clear said face of powder smoke before the men are required to return to work therein. In mines or sections of a mine where no local mechanical methods of ventilation are installed, when there is a solid block on one side of a room, cross-cuts shall be made between such room and the adjacent room not to exceed sixty (60) feet apart; where there is a breast or group of rooms, a cross-cut shall be made on one side or the other of each room, except the room adjoining said block, not to exceed fifty (50) feet from the outside corner of the cross-cut to the nearest corner of the entrance of the room, and on the opposite side of the same room a cross-cut shall be made not to exceed ninety (90) feet from the outside corner of the cross-cut to the nearest corner of the entrance of the room, and thereafter cross-cuts shall be made not to exceed eighty (80) feet apart on each side of the room. Cross-cuts and brattices for ventilation.

Brattices between permanent inlet and outlet airways shall hereafter be constructed in a substantial manner of brick, blocks, masonry, concrete, or non-perishable material. Rooms must not be worked in advance of the ventilating current." Between permanent inlet and outlet airways.

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Effective date. Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 16, 1937.

CHAPTER 147

An Act to Amend Section 562 of the Revised Codes of Montana 1935, Providing for the Cancellation of Registry for Failure to Vote and Re-registration and Providing Further That Registry Be Cancelled for Voting by Absent Voters Ballot, the Manner of Re-registration Thereafter, and Requiring County Clerks to Cancel Registration of Voters Who Voted by Absent Voters Ballot at the General Election Held November 3, 1936.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause. Section 1. That Section 562 of the Revised Codes of Montana 1935, be, and the same hereby is amended to read as follows:

Cancellation of registry for failure to vote. Section 562. Immediately after every general election, the county clerk of each county shall compare the list of electors who have voted at such election in each precinct, as shown by the official poll-books, with the official register of said precinct, and he shall remove from the official register herein provided for the registry cards of all electors who have failed to vote, or who voted by absent voters ballot, at such election, and shall mark each of said cards with the word "cancelled", and for such electors who voted by absent voters ballot, such electors registry cards shall also be stamped with the words "voted by absent voters ballot", and shall place such cancelled cards for the entire county in alphabetical order in a separate drawer to be known as the "cancelled file"; but any elector whose card is thus removed from the official register may re-register in the same manner as his original registration was made, provided, however, that electors whose registry card bears the stamp "voted by absent voters ballot" may re-register only by personally appearing at the office of the county clerk or any deputy registrar for the purpose of re-registering, and the registration card of any elector who thus re-registers shall be filed by the county clerk in

Re-registration.

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the official register in the same manner as original registration cards are filed. The county clerk shall, at the same time, cancel, by drawing a red line through the entry thereof, the name of all such electors who have failed to vote or who voted by absent voters ballot at such election.

List with reference to 1936 election.

Section 2. It is the intent of the legislature that Section 562 of the Revised Codes of Montana 1935, as amended by this act shall apply to the list of registered voters who voted, failed to vote, or voted by absent voters ballot at the general election held on the third day of November, 1936. The county clerk of each county shall compare the list of electors who voted at such election in each precinct, as shown by the official poll-book, with the official register of said precinct and he shall remove from the official register herein provided for the registry cards of all electors who have failed to vote at such election or who voted by absent voters ballot at such election, and shall mark the cards of voters who voted by absent voters ballot with the words "voted by absent voters ballot" in addition to the word "cancelled", and shall place such cards in the "cancelled file" provided to be kept by county clerks for such purpose, and the names of electors whose registry cards bear the stamp "voted by absent voters ballot" shall not be replaced on the official register of qualified voters until such electors shall have re-registered as herein provided.

Comparison of precinct poll book with registration list.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 16, 1937.

CHAPTER 148

An Act Amending the Laws of Montana Relating to State Lands, Providing for the Prospecting for and Mining of Metalliferous Minerals and Gems in Lands Owned by the State or Reserved in Lands Sold or Leased by the State; Empowering the State Board of Land Commissioners to Issue Prospecting Permits and Leases for Such Purposes, and Defining the Powers of Said Board

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With Respect to Lands Containing or Supposed to Contain Such Metalliferous Minerals and Gems, and Repealing Sections 1805.48, 1805.49, 1805.50 and 1805.51 of the Revised Codes of Montana of 1935, Subject to the Rights of Permittees and Lessees Under Permits and Leases in Good Standing at the Time of the Passage of This Act, and Repealing All Other Acts and Parts of Acts in Conflict With This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

"Metalliferous minerals."

Section 1. **Definitions.** a. The term "metalliferous minerals", as used in this act, means gold, silver, lead, zinc, copper, platinum, iron and all other metallic minerals.

"Gems."

b. The term "gems", as used in this act, means sapphires, rubies and other stones commonly known as "precious stones" or "semi-precious stones", but does not include any stone or other earth material commonly used in building or construction work.

"Mining."

c. The term "mining", as used in this act, means the carrying on of operations of any kind for the purpose of extracting from the earth ore and other earth material containing metalliferous minerals and/or gems, and includes operations of any kind for the extraction from ores and other earth material of metalliferous minerals and/or gems.

"Mining lease."

d. The term "mining lease", as used in this act, means a lease issued by the state board of land commissioners for the prospecting for and/or mining of metalliferous minerals and/or gems. The term "mining lessee", as used in this act, means the holder of a mining lease as herein defined, whether such holder is the original lessee under such lease, or holds such lease as successor of such original lessee.

"Returns."

e. The term "returns", as used in this act, means the net amount received by the shipper from products of mining operations, after deducting transportation costs and smelting charges and deductions, and other treatment costs, not including as a deduction any cost of producing or treating at the mine.

"Full market value."

f. The term "full market value", as used in this act, means the highest net value of products of mining opera-

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tions in United States markets, less cost of transportation and refining, not including as a deduction any cost of producing or treating at the mine.

Empowering state board of land commissioners to lease, etc.

Section 2. **Empowering State Board of Land Commissioners to Lease, etc.** The state board of land commissioners is hereby empowered. in its discretion, subject to the other provisions of this act, to lease state owned lands, including the beds of navigable streams and the beds of navigable bodies of water, and the reserved mineral rights of the State in lands heretofore or hereafter sold or leased by the State, to persons, associations of persons, or corporations, for the purpose of prospecting for and/or mining metalliferous minerals and/or gems. Such leases may be for such periods of time as may be determined by said board, subject to such limitations as may be contained in the grants by which the State has heretofore acquired or may hereafter acquire title to lands or mineral rights so leased.

Duration of leases.

Provisions of leases, etc.

Section 3. **Provisions of Leases, etc.** Leases issued by said board under the authority of this act shall give the lessee, so long as he shall comply with the terms and conditions thereof, the exclusive right of possession of the lands or mineral rights leased thereby, subject to such reservations as may be contained in such leases, and may contain reasonable provisions for preliminary prospecting periods, and shall contain reasonable requirements for the prosecution of work during the prospecting period (if any), and for the prosecution of the work of mining after the prospecting period, and may provide for the payment of rentals in conjunction with such work requirements, or may prescribe cash rentals as an alternative, or otherwise, as the board may deem best, shall specify the term of the lease, the royalty to be paid, reasonable forfeiture provisions and reasonable terms under which the lessee may, within a time limited in such lease, remove property placed upon the leased lands by him, in the event of the termination of the lease by forfeiture or by lapse of time, and may contain such other provisions as said board and the lessee may agree upon, not inconsistent with the provisions of this act, and in short said board shall have the power in making such leases to exercise business discretion, so long as the provisions of this act shall not be violated. No mining lessee shall, during any preliminary prospecting period contained in any such lease, remove any metalliferous minerals or

Discretion of board.

Removal of minerals during prospecting period.

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gems from the leased premises, except such as may be necessary for the proper testing and sampling of such lands or mineral rights, and except as may be permitted by said board. The board may, in its discretion and upon such terms as it may deem best, extend from time to time the term of any lease or prospecting permit issued under the provisions of this act, subject to the limitations contained in Section 2 of this act.

Extension of term.

Royalties.

Section 4. **Royalties.** In every such lease the board shall reserve to the State of Montana a royalty which shall, together with the other considerations to be paid by the mining lessee, constitute the full market value of the leasehold interest conveyed by such lease, as such full market value shall be ascertained by the board in accordance with the provisions of this act; which royalty shall be not less than five per cent (5%) of the returns from, or of the full market value of, the metalliferous minerals and/or gems recovered by the lessee from the state lands or reserved mineral rights covered by such lease.

Minimum.

Quantity of lands.

Section 5. **Quantity of Lands.** Any such lease shall cover such quantity of ground as the board, shall, in its judgment, determine to be reasonable and consistent with the character of the ground, the type of deposit or deposits for which said lands is to be mined, and the character and size of the operation contemplated or necessary or reasonable in good mining practice, for the profitable recovery of such metalliferous minerals and/or gems therefrom.

Form of applications.

Section 6. **Form of Applications.** Forms of applications for leases under the provisions of this act shall be prepared by the state board of land commissioners, and each applicant for a mining lease shall execute an application in such form. At the time of the issuance of any mining lease, the mining lessee shall pay to the board a fee of not more than one hundred dollars ($100.00), the amount thereof to be fixed by said board and to be based upon the office work of said board involved in the preparation and issuance of such lease, but the decision of the board as to the amount thereof within said limit shall be final.

Fee.

Bonds to state.

Section 7. **Bonds to State.** The board may also at the time of the execution and delivery of any such mining

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lease, or at any time during the life thereof, require any mining lessee to file with said board, for the benefit of the State of Montana, a bond or bonds conditioned to protect the rights of the State of Montana, particularly in the payment to the proper officer of said State of the royalties reserved in such mining lease, such bond or bonds to be in such form as may be prescribed by said board, and the sufficiency thereof to be subject to the approval of the board. The board may at any time require new or additional bonds if, in its discretion, the interests of the State are not adequately protected by the bond or bonds theretofore filed with it in connection with any such mining lease.

Section 8. **Bonds to Protect Lessees, Contractees, etc.** In the case of lands which shall, at the time of the issuance of a mining lease have been sold, or be under contract of sale, or leased for agricultural, grazing, or other purposes, the board shall provide against the infringement of the rights of such prior purchaser, contractee, or lessee, and among other things may at any time require the mining lessee to file with said board a corporate surety bond in such reasonable amount as may be fixed by the board, conditioned to protect the rights of such prior purchaser, contractee or lessee, the form of such bond to be prescribed by said board, which bond shall run to the State of Montana for the benefit of such prior purchaser, contractee, or lessee, for whose benefit the same is filed with said board. New or additional bonds may be required by the board at any time. Suit may be brought upon such bond by any such prior purchaser, contractee or lessee, for alleged violation of the terms thereof by such mining lessee, and any such suit shall be brought by such claimant in the name of the State of Montana for the use and benefit of such claimant, and any recovery upon such bond shall be for the benefit of and shall be paid to the claimant in whose suit such recovery is made.

Bonds to protect prior purchaser.

Suit upon such bond.

Section 9. **Sales, etc., Subject to Mining Leases.** Any sale of state lands, any contract for the sale of state lands and any lease of state lands, made or issued by said board during the life of any mining lease issued under the provisions of this act shall be subject to such mining lease during the life thereof, and no bond shall be required of such mining lessee for the protection of any

Sales, etc., subject to mining leases.

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such purchaser, contractee or other lessee, unless provision therefor shall be made in such mining lease.

Lease of lands covered by coal, oil or gas lease.

Section 10. **Coal, Oil and Gas Not Affected, When.** In the case of lands covered by a lease for the mining of coal, oil or gas, no lease for the mining upon any such land for metalliferous minerals and/or gems shall be issued to any person, association of persons, or corporation, other than the holder of such coal, oil or gas lease while such coal, oil or gas lease is in force, except with the written consent of the holder of such coal, oil or gas lease.

Board to investigate lands before leasing.

Section 11. **Examination of Lands.** Before leasing any lands for the mining of metalliferous metals and/or gems, the board shall investigate the character of such lands and the nature and possible extent of the mineral deposits therein, for the purpose of determining whether such lands are of such a character as to warrant the issuance of a mining lease thereon, and for the purpose of determining the amount of royalty and other rentals or considerations for which such lands should be leased for mining purposes under the provisions of this act.

Deposit by applicant for lease.

Upon the filing of an application for a mining lease the board may, if the lands covered by such application shall not have theretofore been examined by the board as above provided, require the applicant for such mining lease to deposit with the board an amount of money, not exceeding five hundred dollars ($500.00) in any one case, which, in its judgment, will cover the cost of a special examination, to enable the board to pass upon such application in accordance with the provisions of this act. Such deposit shall be used to reimburse the State of Montana for the actual cost of such examination, and any portion of such deposit not required for such reimbursement shall, upon the approval or rejection of such application, be by the board repaid to the applicant depositing the same. The board shall make and preserve complete records of all such examinations.

Failure of title.

Section 12. **Failure of Title.** In issuing mining leases, as in this act authorized, the said board and the State of Montana shall be deemed to have leased only such right, title and interest as the State may have in the lands and/or metalliferous minerals and/or gems therein contained, covered by such lease, and neither the State of Montana, nor said board, nor any representative, agent

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or employee of the State of Montana, or of said board shall be under any liability in the event of the failure of the title of the State of Montana, in whole or in part, to the lands and/or metalliferous minerals and/or gems covered by such lease.

Assignment of leases or permits.

Section 13. **Assignment of Leases or Permits.** In case of the assignment of a mining lease or a prospecting permit by the holder thereof, the mining lessee or permittee executing such assignment shall not be relieved of any responsibility for operations under such lease or prospecting permit until the financial and moral responsibility of the assignee shall have been passed upon and approved by the board, nor until there shall be deposited with the board:

Requirements for approval.

(a) Such assignment or an executed copy thereof;

Consent by sureties.

(b) An instrument executed by the sureties upon any and all bonds then held by said board in connection with such mining lease or permit and then in force, consenting to such assignment and containing the agreement of such sureties to be bound by such bonds under such assignment, or new bonds conforming to all the requirements of Section 7 hereof; and

Fee.

(c) A fee of two and 50/100 dollars ($2.50).

Determining title to lake and stream beds.

Section 14. **Determining Title to Stream Beds, etc.** The state board of land commissioners is hereby empowered to take all proper proceedings for the purpose of determining the title to the beds of lakes and other bodies of water and of streams within the State of Montana, and to that end to bring or defend suits or other proceedings in court, or before other proper tribunals.

Permits and leases continued in force.

Section 15. **Prospecting Permits.** All prospecting permits and all leases outstanding and in good standing at the time of the passage of this act may continue in force until their expiration by their terms, and the rights of the respective permittees or lessees shall be governed by the laws in force when such permits were respectively issued.

Fee for permit.

Prospecting permits without lease may be hereafter issued by the board upon the payment of a fee of one dollar ($1.00) at the time of the issuance of such permit and a like fee of one dollar ($1.00) at the end of each year during the life thereof, and any such permit shall provide for due diligence in the work of prospect-

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Limitation of permit.

ing during the life of such permit. Any such permit shall be limited to prospecting for metalliferous minerals and/or gems and no such permittee shall have the right to remove from any lands or mineral rights covered by such permit any metalliferous minerals or gems except such as may be necessary for the proper testing and sampling of such lands or mineral rights, and except as may be permitted by said board. During the life of any permit in force at the time of the passage of this act, or issued under the provisions of this section, the permittee may apply for a lease of the lands or mineral rights covered by such permit, and if a lease is granted the same shall be in the form and subject to all the terms and conditions specified in this act, as in the case of a mining lease issued under this act. Such permittee shall have the preference right to a lease, upon such terms as the board shall deem just, subject to the terms of this act, and in any event said permittee shall have preference without competitive bidding, and upon the most favorable terms permitted under this act, to forty (40) contiguous acres. If some other person shall make a better bid for a mining lease upon the land covered by such permit, and if the board shall award a mining lease to such better bidder, the board shall also require such mining lessee to pay to the permittee, prior to the issuance of such lease, the full value of all the work the permittee shall have performed upon the land under his permit in connection with his prospecting and exploration work, and the permittee shall have the right to remove from such land, within thirty (30) days from the date the board shall give such permittee notice of the issuance of such mining lease, or within such further time as the board, upon good cause shown, may allow, any machinery, equipment, improvements, and other property placed thereon by him.

Lease to permittee.

Preference right.

Lease to better bidder.

Notice to lessees.

Section 16. **Notice to Lessees.** Upon the granting of an application for a prospecting permit or a mining lease under the provisions of this act, the commissioner of state lands and investments shall promptly give written notice, by ordinary mail, to the person, association of persons, or corporation to whom such permit or lease shall be so issued, and to the holder of an agricultural or grazing lease embracing the same land, if there be such lessee, or to the holder of a certificate of purchase or patent embracing the same land, if there be such purchaser or

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patentee. The said notice shall be addressed to such permittee, mining lessee, agricultural or grazing lessee, purchaser or patentee at his last known postoffice address.

Disposition of royalties, fees and penalties.

Section 17. **Disposition of Royalties, Fees and Penalties.** All fees and penalties collected under this act shall be credited to the state general fund; all rentals shall be credited to the income fund of the grant to which the land belongs; and all moneys collected as royalties shall be credited to the permanent fund arising from the grant to which the land belongs under each particular permit or lease; provided, however, that all rentals and royalties received from "mortgage lands" shall be credited to the same fund or funds as other receipts from such lands; and that all rentals and royalties received under or in connection with a lease or permit on other lands or minerals rights, not acquired through any grant to the State of Montana from the United States, shall be paid into the same funds into which such receipts are paid when the land is part of the grant for the benefit of the public schools of the State of Montana.

Proviso, as to "mortgage lands."

As to lands not acquired from United States.

Repealing provisions.

Section 18. **Repealing Provisions.** Sections 1805.48, 1805.49, 1805.50 and 1805.51 of the Revised Codes of Montana of 1935, are hereby repealed, except that all permits and leases issued under said sections and in good standing at the time of the passage and approval of this act shall continue in force until they shall expire by their terms, and said sections shall continue in force only to the extent necessary to protect the rights of the permittees and lessees under such permits and leases.

All other acts or parts of acts in conflict with this act are hereby repealed.

Effective date.

Section 19. This act shall take effect upon its passage and approval.

Approved March 16, 1937.

CHAPTER 149

An Act to Amend Section 933 Revised Codes of Montana, 1935, Relating to the Official Staff of the Superintendent of Public Instruction, Adding Thereto a Music Supervisor, Fixing the Salary, and Defining the Duties of Such Supervisor.

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Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 933, Revised Codes of Montana 1935 shall be and the same is hereby amended to read as follows:

Official staff of superintendent of public instruction.

"Section 933. The superintendent of public instruction shall have the power to appoint one deputy, who shall receive an annual salary of twenty-five hundred dollars, one high school supervisor at an annual salary of twenty-five hundred dollars, one rural school supervisor at an annual salary of twenty-five hundred dollars each, one music supervisor at an annual salary of twenty-five hundred dollars, one clerk at an annual salary of fifteen hundred dollars, and two stenographers at an annual salary of twelve hundred dollars each. Such deputy, high school supervisor, rural school supervisor, clerk, and stenographers shall perform such duties pertaining to the office as the superintendent may direct. Such music supervisor shall be qualified to perform the following duties: Supervise the teaching of music in the graded, rural and high schools of this State, and assist the teachers and faculty in said schools in establishing and carrying out a progressive music program for the benefit of all children in the public schools of the State, supervise and direct the examinations, issuance of certificates, keeping of records in connection with the foregoing duties, and perform all other duties required in carrying on the work in applied music as prescribed in sub-section 10 of Section 1092 Revised Codes of Montana, 1935, and the laws of Montana relating to music education in the public schools. The music supervisor must possess the following qualifications: A graduate in public school music from an accredited college or university, and said supervisor shall have had five (5) years teaching experience in public school music. The music supervisor shall perform only such duties as apply to music supervision."

Salaries.

Qualifications of music supervisor.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith, are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 16, 1937.

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CHAPTER 150

An Act to Amend Sections 10089 and 10096 of the Revised Codes of Montana 1935, Relating to the Bonds of Executors and Administrators, When Such Bonds Shall Be Required and When Such Bonds May Not Be Required.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 10089 of the Revised Codes of Montana 1935, be, and the same is hereby, amended to read as follows:

Additional bond of executor or administrator.

"Section 10089. Except when it is expressly provided in the will that no bond shall be required of the executor, the court or judge must require an additional bond whenever the sale of any real estate belonging to an estate is ordered; but no such additional bond must be required when it satisfactorily appears to the court or judge that the penalty of the bond given before receiving letters or any bond given in place thereof, is equal to twice the value of the personal property remaining in or that will come into the possession of the executor or administrator, including the annual rents, profits, and issues of real estate, and twice the probable amount to be realized on the sale of the real estate ordered to be sold."

When not required.

Amending clause.

Section 2. That Section 10096 of the Revised Codes of Montana 1935, be, and the same is hereby, amended to read as follows:

Issuance of letters without bond.

"Section 10096. When it is expressly provided in the will that no bond shall be required of the executor, or when it appears to the satisfaction of the court or judge that the estate has, at the time of hearing on the application for letters in such estate, no assets warranting the necessity of a bond, letters testamentary or letters of administration with the will annexed may issue, without any bond, unless the court or judge, for good cause, require one to be executed; but the executor or administrator with the will annexed may at any time afterward, if it appear from any cause necessary or proper, be required to file a bond as in other cases."

Bond may be required afterward for cause.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

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Effective date.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 16, 1937.

CHAPTER 151

An Act to Amend Sections 8903, 8904, 9334, 9335 and 9341 of the Revised Codes of Montana, 1935, Relating to the Drawing Capsules From the Trial Juror Boxes; Providing That the District Judge Shall Draw Such Capsules and Providing That in Counties Where There Are Two or More District Judges Residing That Each of Such Judges Shall Participate in the Drawing of Such Capsules.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 8903 of the Revised Codes of Montana, 1935, be and the same is hereby amended to read as follows:

District judge to draw jury.

Section 8903. **District Judge to Draw Jury.** Immediately upon the order mentioned in the preceding section being made the district judge shall in the presence of the clerk of the court proceed to draw the jurors from jury box No. 1. In counties where there are two or more district judges residing each of such judges must participate in such drawing and the capsules shall be drawn alternately by such judges and lots shall be cast to determine the order in which such judges shall draw.

Both or all district judges in county to participate.

Amending clause.

Section 2. That Section 8904 of the Revised Codes of Montana, 1935, be and the same is hereby amended to read as follows:

Section 8904. **Drawing—How Conducted.**

Drawing, how conducted.

1. The clerk must place said box on a rod so that the same may readily revolve and said box must be revolved a sufficient number of times so as to insure that the capsules in said box have become thoroughly mixed, and thereafter the judge or judges must draw from said box one at a time, as many of said capsules containing the names of jurors as are ordered by the court.

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2. A minute of the drawing shall be entered in the minutes of the court, which must show the name on each slip of paper so drawn from said jury box. Entry in minutes.

3. If the name of any person is drawn from said box who is deceased or insane, or who may have permanently removed from the county, or who is exempt from jury service, and the fact shall be made to appear to the satisfaction of the court, the name of such person shall be omitted from the list, and the slip of paper having such name on it shall be destroyed and another juror drawn in his place, and the fact shall be entered upon the minutes of the court. The same proceeding shall be had as often as may be necessary, until the number of jurors required shall be drawn. After the drawing shall be completed, the clerk shall make a copy of the list of names of the persons so drawn, and certify the same. In his certificate he shall state the date of the order and of the drawing, and the number of the jurors drawn, and the time when and the place where such jurors are required to appear. Such certificate and list shall be delivered to the sheriff for service. Omitting from list the name of a person drawn. Clerk to certify list.

Section 3. That Section 9334 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows: Amending clause.

Section 9334. **Judge or Judges to Draw Capsules Containing Ballot.** When an issue of fact to be tried by a jury is brought to trial, the district judge in the presence of the clerk of the court must openly draw out of the trial juror box as many of the capsules containing ballots, with the names of jurors thereon, one after another, as are sufficient to form a jury. In counties where there are two or more district judges residing each of such judges must participate in such drawing and the capsules shall be drawn alternately by such judges and lots shall be cast to determine the order in which such judges shall draw. Judge or judges to draw capsules.

Section 4. That Section 9335 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows: Amending clause.

Section 9335. **Mode of Drawing Capsules Containing Ballot.** Before the first capsule containing a ballot is drawn, the box must be closed and well shaken, so as to thoroughly mix the capsules therein; and the district Mode of drawing capsules.

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judge must draw a capsule containing a ballot with the juror's name thereon, through an aperture made in the lid large enough only to admit his hand conveniently, and without said judge gazing into said box before or while drawing said capsule.

Amending clause.

Section 5. That Section 9341 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

When ballots to be drawn from box No. 3.

Section 9341. **Ballots—When Drawn From Box No. 3.** If a sufficient number of jurors duly drawn and notified do not attend to form a jury, or a jury is impaneled in another cause and not discharged, the district judge or judges shall pursuant to an order to be entered in the minutes, in the presence of the clerk of the court draw a sufficient number of ballots from box No. 3, specified in Section 8907 of this code, to complete the jury. The sheriff must notify the persons thus drawn to attend forthwith, or at a time fixed by court. If for any reason a sufficient number of jurors to try the issue is not obtained, from the persons notified, under an order made as prescribed in this section, the court may make another order, or successive orders, until a sufficient number is obtained. Each person so notified must attend at a time required by the notice, and unless excused by the court or set aside, must serve as a juror upon the trial. For a neglect or refusal so to do, he may be fined in the same manner as a trial juror, regularly drawn, and notified, as prescribed in this code; and he is subject to the same exceptions and challenges as any other trial juror.

Notice to persons drawn.

Successive orders.

Duty of person notified.

Penalty.

Repealing clause.

Section 6. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 7. This act shall be in full force and effect from and after its passage and approval.

Approved March 16, 1937.

CHAPTER 152

An Act to Amend Section 4465.27 of the Revised Codes of Montana, A. D. 1935, Providing for the Leasing of County Property.

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Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 4465.27 of the Revised Codes of the State of Montana, A. D. 1935 be amended to read as follows to-wit:

Lease of county property.

"Section 4465.27. **Lease of County Property.** The board of county commissioners has jurisdiction and power under such limitations and restrictions as are prescribed by law; to lease and demise county property, however acquired, which is not necessary to the conduct of the county's business or the preservation of county property and for which immediate sale cannot be had. Such leases shall be in such manner and for such purposes as, in the judgment of the board, shall seem best suited to advance the public benefit and welfare, and all revenue derived therefrom, except as otherwise provided, shall be paid into the county treasury. On the tenth day of January and the tenth day of July in each year the county treasurers shall distribute such revenues to the several county and trust and agency funds on the basis of the tax levy for the preceding calendar year. All such property must be leased subject to sale by the board, and no lease shall be for a period to exceed three (3) years, save and except as to deposits of coal only or coal and the surface above the same, owned by any county or to which any county has heretofore or may hereafter acquire title by tax title, tax deed or otherwise, which lease or leases may be for a period of ten years and to run and continue as long thereafter as coal is being mined and extracted from the leased property in commercial quantities and that as to all such deposits of coal only or coal and surface the provisions of Sections 2208.1 and 2235 of the Revised Codes of the State of Montana, A. D. 1935 and all other provisions of the laws of Montana relating to the sale by the county commissioners of a county of property owned by the county or acquired by tax title or otherwise shall be suspended during the time any such lease or leases of coal only or coal and surface made hereunder shall be in force and effect."

Disposition of revenue therefrom.

Lease subject to sale.

Terms of lease.

Repealing clause.

Section 2. That all acts and parts of acts in conflict herewith are hereby repealed or their provisions suspended as provided for by Section 1 of this act.

Effective date.

Section 3. That this act shall be in full force and effect from and after its passage and approval.

Approved March 16, 1937.

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CHAPTER 153

An Act to Amend Section 11159 Revised Codes of Montana, 1935, Prohibiting Gambling Games, Said Amendment Providing for the Playing of Certain Games for Amusement and Pastime, and the Use in Places of Business Trade Stimulaters Upon the Payment of a License to the County Treasurer, and Providing a Penalty for the Violation Thereof.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 11159 of the Revised Codes of Montana, 1921, be, and the same is hereby amended to read as follows:

Gambling games prohibited.

"Section 11159. Every person who deals, or carries on, opens or causes to be opened, or who conducts, or causes to be conducted, operates or runs, either as principal, agent, owner or employee, whether for hire, or not, any game of monte, dondo, fan-tan, tan, stud horse poker, craps, seven and a half, twenty-one, faro, roulette, pangeni or pangene, hokey-pokey, draw-poker, or the game commonly known as round-the-table poker, or any banking or percentage game, or any game commonly known as sure-thing game, or any game of chance played with cards, dice or any device whatsoever, or who runs or conducts or causes to be run or conducted, or keeps any slot machine, punch board, or other similar machine or device, or permits the same to be run or conducted for money, checks, credits, or any representative of value, or any property or thing whatsoever, or any person owning or in charge of any cigar store, drug store, or other place of business, or any place where drinks are sold or served, who permits any of the games prohibited in this section to be played, in or about such cigar store, drug store, or other place of business, or permits any slot machine, punch board, or similar device to be kept therein, or any person or persons who conduct any bucket-shop where stocks or securities of any kind are sold on margins, and every person who plays or bets at or against said prohibited games or devices, except as hereinafter provided, is guilty of a misdemeanor and

Penalty.

shall be punishable by a fine of not less than one hundred dollars ($100.00), nor more than one thousand dollars ($1,000.00), and may be imprisoned for not less than three (3) months, nor more than one (1) year, or by both

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such fine and imprisonment; provided, however, that it shall be lawful for cigar stores, fraternal organizations, charitable organizations, drug stores and other places of business, upon the payment of a license fee therefor to the county treasurer in the sum of ten dollars ($10.00) annually per table used or operated in such place of business, to maintain and keep for the use and pleasure of their customers and patrons, card tables and cards with which and at which such games as rummy, whist, bridge whist, black jack, euchre, pinochle, pangene or pangeni, seven-up, hearts, freeze-out, casino, solo, cribbage, five hundred, penie ante, dominos, high-five and checkers may be played for pastime and amusement by customers who are not minors, and for the maintenance of which a charge may be made, to be paid by the users by the purchase of trade checks which must be redeemable in merchandise at the going retail price of such merchandise, which is the stock in trade of such business; and that places of business may, upon the payment of a license fee therefor to the county treasurer in the sum of ten dollars ($10.00) annually, exhibit for use and sale to all customers not minors, trade stimulators, such as pull boards and ticket boards, where each board so used returns to the owner or business not to exceed the going retail price of the goods disposed of and sold and disposed of through the use of the same, and which goods sold and disposed of through the use of the same must not be other than the goods constituting the usual stock in trade of the business using the same.

Proviso.

License fee for card table.

Games for pastime.

Minors excepted.

License fee for trade stimulators.

Section 2. The license fee provided for in the preceding section shall be paid to the treasurer of the county in which such licensee operates before any of the acts or things herein licensed and permitted shall be done, operated, or used, and the applicant for a license shall, along with the amount of the license fee, send or give to the county treasurer the name and location of the business for which the license is sought, together with the names of all of the owners thereof, whereupon the county treasurer shall issue a license to said place of business, which license shall show on the face thereof, the number of card tables for which license is paid, and the trade stimulators, if any, for the use of which license is paid. All licenses issued hereunder shall expire each and every year at midnight, the 31st day of December, of the calendar year for which they are issued. The

Application for license.

License.

Expiration date.

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funds so received shall be deposited in the poor fund of the county.

Excluded from act.

Section 3. That any religious, fraternal or charitable organization, and all private homes, are not included within the provisions of this act.

Repealing clause.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 5. This act shall be in full force and effect from and after its passage and approval.

Approved March 16, 1937.

CHAPTER 154

An Act Amending Section 1759.5 of the Revised Codes of Montana, 1935, Requiring the Use of License Plates on Motor Vehicles, Trailers and Semi-trailers; Defining Certain Regulations Pertaining to License Plates; Relating to Fictitious License Plates; Relating to the Use of License Plates Other Than Those Provided by Law.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 1759.5 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

License plates required.

"Section 1759.5. **Must Have License Plates.** Except as otherwise provided herein, no person shall operate a motor vehicle upon the public highways of this State without a license and unless such vehicle shall have been properly registered and shall have the proper number

How displayed.

plates conspicuously displayed, one (1) on the front and one (1) on the rear of such vehicle, each securely fastened so as to prevent the same from swinging and unobstructed from plain view, except that trailers and semi-trailers shall have but one (1) number plate conspicuously displayed on the rear. No person shall display on such vehicle at the same time any number assigned to it under any motor vehicle law, except as

Use of plates issued for other vehicle.

in this act otherwise provided. It is further provided that it shall be unlawful to use license plates issued to

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one vehicle on any other vehicle, trailers or semi-trailers, or repainting old license plates to resemble current license plates and any person violating this provision shall be deemed guilty of a misdemeanor and shall be subject to the penalty as set out in Section 1760.10 of the Revised Codes of Montana, 1935." Penalty.

Section 2. That all acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved March 16, 1937.

CHAPTER 155

An Act to Authorize the State Water Conservation Board to Construct and Operate an Irrigation Project Known as the "Sidney Pumping Project" in Montana and North Dakota and to Divert and Convey Waters From the Yellowstone River in Montana to the State of North Dakota for the Operation of Said Project.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The state water conservation board of the State of Montana is hereby authorized and empowered to construct and operate a certain irrigation project in the vicinity of Sidney, Montana, an application for which project has been presented by the state water conservation board to the federal emergency administration of public works and is known and designated in such federal emergency administration of public works as the "Sidney pumping project", P. W. A. docket Montana No. 1114-R, and to make all necessary arrangements and contracts with the federal emergency administration of public works for the financing, construction and operation of said project. State water conservation board authorized to construct Sidney pumping project.

Section 2. The said state water conservation board is further authorized and empowered to appropriate and divert waters from the Yellowstone River for the construction of said project and to convey, permit and supervise the use of said waters in the State of North Dakota as well as the State of Montana, and to exercise all To appropriate water from Yellowstone river.

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powers herein given to said board in connection with said project to the same extent and in the same manner as if the said project was located wholly within the State of Montana.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 16, 1937.

CHAPTER 156

An Act to Amend Section 9716 of the Revised Codes of Montana of 1935 Relative to Court Costs in Justice Courts.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 9716 Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Costs to prevailing party.

Section 9716. The prevailing party in justice courts is entitled to costs of the action and also of all proceedings taken by him in aid of execution issued upon any judgment recovered therein.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 16, 1937.

CHAPTER 157

An Act to Create Soil Conservation Districts; to Create a State Soil Conservation Committee; to Define Its Powers and Duties and to Declare an Emergency.

Be it enacted by the Legislative Assembly of the State of Montana:

State soil conservation committee.

Section 1. There is hereby established to serve as an agency of the State and to perform the functions conferred upon it in this act, the state soil conservation com-

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mittee. The committee shall consist of the state water conservation board and ex-officio the director of the state agricultural experiment station located at Bozeman and the director of the state extension service. The committee may invite the secretary of agriculture of the United States of America to appoint one person to serve with the above mentioned members as a member of the committee. The committee shall keep a record of its official actions, shall adopt a seal which shall be judicially noticed and may perform such acts, hold such public hearings and promulgate such rules and regulations as may be necessary for the execution of its functions under this act. The state soil conservation committee may designate one of its members as an administrative officer or may employ an administrator and other such agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. The committee may call upon the attorney general of the State for such legal service as it may require or may employ its own counsel and legal staff. It shall have authority to delegate its chairman to one or more of its members, or to one or more agents or employees such powers and duties as it may deem proper. It shall be furnished with the necessary supplies and equipment.

To keep a record, adopt a seal, etc.

Services of attorney general.

Section 2. The committee shall designate its chairman and a majority of the committee shall constitute a quorum, and the concurrence of a majority in any matter within their duties shall be required for its determination. The chairman and members of the committee shall receive no additional compensation for their services other than that received under the water conservation board, but shall be entitled to expenses including traveling expenses necessarily incurred in the discharge of their duties on the committee.

Quorum.

Compensation of members.

Section 3. **Duties and Powers.** To conduct demonstrational projects within the district on lands owned or controlled by this State or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the occupier of such lands and the necessary rights or interest in such lands. To conduct surveys, investigations and research relating to the character of soil erosion and the preventive and

Powers and duties.

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control measures needed and to publish the same. No district shall initiate any research program except in cooperation with the Montana experimental station or any of its agencies.

Assisting directors of districts.

To offer such assistance as may be appropriate to the directors of soil conservation districts, organized as provided hereinafter, in the carrying out of any of their powers and programs.

Coordinate programs.

To coordinate the programs of the several soil conservation districts organized hereunder so far as this may be done by advice and consultation.

Cooperation of the United States.

To secure the cooperation and assistance of the United States and any of its agencies, and of agencies in this State, in the work of such districts.

Creating the district.

Section 4. **Creating the District.** Whenever forty per cent or more of the persons, occupiers of land within the area proposed to be created into a district, shall decide to incorporate a district, they shall submit a statement in writing to the soil conservation committee, together with a plat showing the proposed boundaries of the area. Such statement shall set forth the name of the proposed district; the county or counties in which such proposed district is located; the names and addresses of all operators of land within said area. The soil conservation committee may then require any additional information it may reasonably deem necessary. On receipt of the said statement and plat and such additional information, the committee shall fix the time and place of a hearing for approval, which shall not be less than thirty nor more than sixty days after receipt of said statement. The persons deciding to incorporate said soil conservation district shall then cause notice of said hearing to be given to all persons interested in the use of said area by publishing a notice once a week for two successive weeks in a newspaper of general circulation in such area. The state soil conservation district administrator, for and on behalf of the state soil conservation committee, shall hear evidence offered in support of, or in opposition to the creation of said district and shall make full inquiry into the advisability of the creation thereof; the record taken upon the hearing, together with the report of the administrator, shall be submitted to the state soil conservation committee. If the creation

Statement.

Hearing for approval.

Notice.

District administrator to hear evidence, etc.

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of the said district shall appear feasible and beneficial to the majority of those affected, the state soil conservation committee shall issue its certificate of approval.

APPOINTMENT, QUALIFICATIONS AND TENURE OF DISTRICT DIRECTORS

Governing body of district.

Directors.

The governing body of the district shall consist of five (5) directors, three of whom shall be elected by majority of the landowners in the district and two appointed by the state soil conservation committee who are by training and experience qualified to perform the specialized services which shall be required of them as stated herein.

Term of office.

The directors shall designate a chairman and may, from time to time, change such designation. The term of office of each director shall be three (3) years, except that the directors who are first appointed shall be designated to serve for terms of 1 and 2 years respectively, from the date of their appointment. A director shall hold office until his successor has been elected or appointed and has qualified. Vacancies shall be filled for the unexpired term. The selection of such successors to fill an unexpired term, or for a full term, shall be made in the same manner in which the retiring directors shall respectively have been selected. A majority of the directors shall constitute a quorum and the concurrence of a majority in any matter within their duties shall be required for its determination.

Quorum.

Filing articles of incorporation.

Section 5. **Articles of Incorporation.** Upon the issuance of the certificate of approval, a committee of three or more land occupiers who reside within the proposed district may prepare articles of incorporation and file them in the office of the secretary of state with a payment of a fee of one dollar ($1.00); said articles to be accompanied by the said certificate of approval and to be signed, sealed, and acknowledged. Such articles shall substantially state the following:

Fee.

Contents of articles.

Name.

(1) The name of the district, the last three words of which shall be "soil conservation district".

Location.

(2) The county or counties in which said district is located, and the place where the principal office and business of the district will be conducted.

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Duration. (3) The term for which such district is incorporated, which shall not exceed forty years.

Incorporators. (4) The name and residence of the persons who subscribe to and acknowledge the articles of incorporation together with a statement that each is a land occupier residing within the proposed district.

Power. (5) The power of the district, which must not be inconsistent with the provisions of this act.

Officers. (6) The officers of the district, their principal duties, and the principal duties of the board of directors.

Purposes. (7) The purposes for which the district is incorporated. If the said articles substantially comply with the requirements herein set forth and are accompanied by the certificate of approval, the secretary of state shall issue to such district a certificate of incorporation. All amendments to articles of incorporation shall also be filed by the secretary of state without charge.

Certificate of incorporation.

Filing amendments.

Section 6. **Articles of Incorporation in County to Be Filed.** Soil conservation districts organized under this act, shall upon completion of their organization, file with the county clerk of each county in which their lands lie, a map or plat of the external boundaries of the district so created and a copy of their articles of incorporation. Whenever such boundaries of such a district shall be changed, the district shall file with the county clerk or clerks a map or plat indicating such changed boundaries, and except for the filing of said plat it shall not be necessary for any soil conservation district to otherwise mark the exterior boundaries or lines thereof. Whenever the articles of incorporation shall be amended, such shall be filed with said county clerk or clerks.

Filing map of district.

Changing boundaries.

Amendment of articles to be filed with county clerk.

Section 7. **Incorporated Districts to Adopt By-laws.** Each district incorporated under this act shall within thirty days after its incorporation adopt by-laws subject to the approval of the state soil conservation committee. Such by-laws shall provide substantially:

By-laws; provisions.

Meetings. (1) The time, place, and manner of calling and noticing meetings of the district and of its board of directors.

Quorum. (2) The number of members constituting a quorum at any meeting requiring a vote of the membership.

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(3) The number of the directors and officers of the district; the manner of their election; their qualifications, duties, and tenure of office; and the manner of filling vacancies in any office or in the board of directors. Number of directors and officers, etc.

(4) Authority to formulate regulations governing the use of lands within the district in the interest of conserving soil and soil resources and preventing and controlling erosion. Regulations for use of lands.

(5) That land use regulations adopted shall be binding and obligatory upon all occupiers of land within such district. Effect of

(6) The right to petition the directors to amend, supplement, or repeal any regulations formulated. Right to petition.

(7) The manner of amending the articles of incorporation and the by-laws of the district. Amending articles.

(8) For an annual accounting of finances and transactions. Accounting.

(9) Who shall vote and in what manner. voting.

(10) For any lawful provision relating to the management or operation of the district. Other provisions.

Section 8. **Power of Districts and Directors.** A soil conservation district under the provisions of this act shall have the following powers in addition to others granted in this act: Other powers of district.

(1) To carry out preventive and control measures within the district including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in the use of land, on lands owned or controlled by this State or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the occupier of such lands or the necessary rights or interests in such lands; Preventive and control measures.

(2) To cooperate, or enter into agreements with, and within the limits of appropriations duly made available by law, to furnish financial or other aid to, any agency, governmental or otherwise, or any occupier of lands within the district, in carrying on of erosion-control and prevention practices within the district, subject to such Agreements and financial aid.

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conditions as the directors may deem necessary to advance the purposes of this act;

Assisting land occupiers.

(3) To make available, on such terms as it shall prescribe, to land occupiers within the district, agricultural and engineering machinery and equipment, fertilizer, seeds, and seedlings, and such other material or equipment, as will assist such land occupiers to carry on operations upon their lands for the conservation of soil resources and for prevention and control of erosion;

Structures.

(4) To construct, improve, and maintain such structures as may be necessary or convenient for the performance of any of the operations authorized in this act;

Plans for soil conservation.

(5) To develop comprehensive plans for the conservation of soil resources and for the control and prevention of soil erosion within the district, which plans shall specify in such detail as may be possible the acts, procedures, performances, and avoidances which are necessary or desirable for the effectuation of such plans, including the specification of engineering practices, methods, of cultivation, the growing of vegetation, cropping programs, tillage practices, and changes in use of land; and to publish such plans and information and bring them to the attention of occupiers of lands within the district;

Taking over project undertaken by United States.

(6) To take over, and to administer, any soil conservation, erosion-control, or erosion prevention project located within its boundaries undertaken by the United States or any of its agencies, or by this State or any of its agencies; to manage, as agent of the United States or any of its agencies, or of control, or erosion prevention

Acting as agent.

project within its boundaries; to act as agent for the United States, or any of its agencies, or this State or any of its agencies, or connection with the acquisition, construction, operation, or administration of any soil conservation, erosion control, or erosion prevention

Accepting donations.

project within its boundaries; to accept donations, gifts and contributions in money, services, materials, or otherwise, from the United States or any of its agencies, or from this State or any of its agencies, and to use or ex-

To use and expend.

pend such moneys, services, materials, or other contributions in carrying on its operations;

Seal.

(7) To have a seal, which seal shall be judicially noticed; to have perpetual succession unless terminated

Contracts.

as hereinafter provided; to make and execute contracts

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and other instruments, necessary or convenient to the exercise of its powers; to make, and from time to time amend and repeal, rules and regulations not inconsistent with this act, to carry into effect its purposes and powers; any occupier of land within such district may at any time file a petition with the directors asking that any or all of the land-use regulations prescribed and adopted by the directors under the provisions of this section, shall be amended, supplemented, or repealed. Land-use regulations prescribed and adopted pursuant to the provisions of this section shall not be amended, supplemented, or repealed except in accordance with the procedure prescribed in this section for adoption of land-use regulations.

Petition by land occupier.

Section 9. **Land-use Regulations.** The regulations to be adopted by the directors under provisions of this section may include:

Land use regulations.

(1) Provisions requiring the carrying out of necessary engineering operations, including the construction of terraces, terrace outlets, check dams, dikes, ponds, ditches, and other necessary structures;

Engineering operations.

(2) Provisions requiring observance of particular methods of cultivation including contour cultivating, contour furrowing, lister furrowing, sowing, planting, strip cropping, seeding, and planting of lands to water-conserving and erosion-preventing plants, trees and grasses, forestation, and reforestation;

Methods of cultivation.

(3) Specifications of cropping programs and tillage practices to be observed;

Cropping and tillage.

(4) Provisions requiring the retirement from cultivation of highly erosive areas or of areas on which erosion may not be adequately controlled if cultivation is carried on;

Retirement of areas from cultivation.

(5) Provisions for such other means, measures, operations, and programs as may assist conservation of soil resources and prevent or control soil erosion in the district, having due regard to the legislative findings set forth in this act.

Other means for soil conservation.

Section 10. **Cooperation Between Districts.** The directors of any two or more districts organized under the provisions of this act may cooperate with one another in the exercise of any or all powers conferred in this act.

Cooperation between districts.

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State agencies to cooperate.

Section 11. **State Agencies to Cooperate.** Agencies of this State which shall have jurisdiction over, or be charged with the administration of, any state-owned lands, and of any county, or other governmental subdivision of the State, which shall have jurisdiction over, or be charged with the administration of, any county-owned or other publicly owned lands, lying within the boundaries of any district organized hereunder, shall cooperate to the fullest extent with the directors of such districts in the effectuation of programs and operations undertaken by the directors under the provisions of this act. The directors of such districts shall be given free access to enter and perform work upon such publicly owned lands. The provisions of land-use regulations adopted pursuant to this act shall have the force and effect of law over all such publicly owned lands, and shall be in all respects observed by the agencies administering such lands.

Access to and regulations concerning publicly owned land.

Discontinuance of districts.

Section 12. **Discontinuance of Districts.** At any time after 5 years following the organization of a district under the provisions of this act, any ten occupiers of land lying within the boundaries of such district may petition the state soil conservation committee requesting that the district be discontinued. The committee may conduct such public hearings upon this petition as may be necessary. If three-fourths of the land occupiers are in agreement that the district should be discontinued, the committee shall authorize the directors of the district to terminate the affairs of the district. The directors shall dispose of all property belonging to the district at public auction and shall pay over the proceeds of such sale into the state treasury. The directors shall make a final report of all discontinuance proceedings to the state soil conservation committee. Upon the approval of such report the committee shall order such district discontinued. The secretary of state shall issue to the directors of the district a certificate of dissolution and shall make a record of such certificate.

Petition.

Hearings.

Disposition of property.

Report.

Certificate of dissolution.

Ordinances no longer effective.

Upon issuance of a certificate of dissolution under the provisions of this section, all ordinances and regulations theretofore adopted and in force within such districts shall be of no further force and effect. All contracts theretofore entered into, to which the district or directors are parties, shall remain in force and effect for

Contracts.

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the period provided in such contracts. The state soil conservation committee shall be substituted for the district or directors as party to such contracts. The committee shall be entitled to all benefits and subject to all liabilities under such contracts and shall have the same right and liability to perform, to require performance, to sue and be sued thereon, and to modify or terminate such contracts by mutual consent or otherwise, as the directors of the district would have had. Committee to succeed to benefits and liabilities.

Section 13. **Separability Clause.** If any provision of this act, or the application of any provision to any person or circumstance, is held invalid, the remainder of the act, and the application of such provision to other persons or circumstances, shall not be affected thereby. Validity of act.

Section 14. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved March 16, 1937.

CHAPTER 158

An Act to Amend Section 1054 of the Revised Codes of Montana 1935, Relating to the Courses of Study in Public Schools.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1054 of the Revised Codes of Montana 1935, be, and the same is hereby, amended to read as follows: Amending clause.

Section 1054. All public schools shall be taught in the English language, and instruction shall be given in the following branches, viz.: Reading, penmanship, written arithmetic, mental arithmetic, orthography, geography, English grammar, physiology and hygiene, with special reference to the effect of alcoholic stimulants and narcotics on the human system, civics (state and federal), United States history, the history of Montana, music, art, elementary agriculture including cooperative economics. Courses of study.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

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Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 16, 1937.

CHAPTER 159

An Act Authorizing the State Board of Land Commissioners to Acquire or Lease Property for Development as State Forests and State Parks and Providing for the Disposition of Income From Such Lands.

Be it enacted by the Legislative Assembly of the State of Montana:

Acquiring lands for forestry purposes.

Section 1. That the state board of land commissioners is hereby authorized to accept gifts, donations or contributions of land suitable for forestry or park purposes, and to enter into agreements with the federal government or other agencies for acquiring by lease, purchase or otherwise such lands as in the judgment of the state board of land commissioners are desirable for state forests.

Expenditures authorized.

Products of lands.

Rules.

Section 2. When lands are acquired or leased under Section 1 of this act, the state board of land commissioners is hereby authorized to make expenditures from any funds not otherwise obligated, for the management, development and utilization of such areas; to sell or otherwise dispose of products from such lands, and to make such rules and regulations as may be necessary to carry out the purposes of this act.

Disposition of revenues.

Section 3. All revenues derived from lands acquired under the provisions of this act shall be segregated by the state treasurer for the use of the state board of land commissioners in the acquisition, management, development and use of such lands until all obligations incurred have been paid in full. Thereafter, fifty per cent of all net profits accruing from the administration of such lands shall be applicable for such purposes as the legislature may prescribe, and fifty per cent shall be paid into the school fund of the county in which lands are located.

Obligations payable solely from revenues.

Section 4. Obligations for the acquisition of land incurred by the state board of land commissioners under the authority of this act shall be paid solely and exclu-

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sively from revenues derived from such lands and shall not impose any liability upon the general credit and taxing power of the State.

Power of sale.

Section 5. The state board of land commissioners shall have full power and authority to sell, exchange or lease lands under its jurisdiction by virtue of the act when, in its judgment, it is advantageous to the State to do so in the highest orderly development and management of state forests and state parks: Provided, however, that said sale, lease or exchange shall not be contrary to the terms of any contract which it has entered into.

Repealing clause.

Section 6. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

Validity of act.

Section 7. If any section, subdivision, sentence or clause of this chapter is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter.

Effective date.

Section 8. This act shall take effect upon its approval by the governor.

Approved March 16, 1937.

CHAPTER 160

An Act Relating to the Absence From State Employment of Members of the National Guard While Attending the Annual Encampment of the Regiment.

Be it enacted by the Legislative Assembly of the State of Montana:

Leave of absence of state employees attending national guard encampment.

Section 1. That any person who is a member of the organized national guard of the State of Montana and who is an appointee of or employee of the State of Montana, or any of its departments, or any county or city within the State, shall be given leave of absence with pay for attending regular encampments authorized by the secretary of war of the United States for the Montana national guard while in attendance at such annual encampment, or without the time being charged against him on his annual vacation.

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Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 16, 1937.

CHAPTER 161

An Act to Amend Section 464 of the Revised Codes of Montana of 1935 Relating to Bonds of State Officers and Increasing the Amount of Bonds of Deputy State Treasurer and His Chief Clerk and Providing the Amounts of Bonds of His Assistant Clerk and Bond Clerk.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 464 of the Revised Codes of Montana of 1935 relating to bonds of state officers be amended to read as follows:

Bonds of state officers.

"Section 464. **Bonds of State Officers.** The following named state officers shall give official bonds, conditioned as provided by law, in the following amounts, to-wit:

Adjutant general, one thousand dollars.

Chief grain inspector, one thousand dollars.

Attorney general, twenty-five thousand dollars.

State auditor, ten thousand dollars.

Deputy state auditor, two thousand dollars.

Deputy insurance commissioner of state auditor, two thousand dollars.

State fire marshal, one thousand dollars.

Bank examiner, ten thousand dollars.

Assistant superintendent of banks, one thousand dollars.

Secretary of state board of health, one thousand dollars.

Clerk of supreme court, three thousand dollars.

State forester, two thousand dollars.

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Bonds of state officers.

Game warden, two thousand dollars.

Chief engineer of highway commission, three thousand dollars.

Principal assistant of highway commission, three thousand dollars.

Chairman industrial accident board, five thousand dollars.

Chief accountant industrial accident board, two thousand dollars.

Registrar of state land office, twenty-five thousand dollars.

Assistant registrar of state land office, five thousand dollars.

Deputy registrar of state lands, five thousand dollars.

Secretary and chief clerk livestock commission, ten thousand dollars.

Six market inspectors each, of the livestock commission, two thousand dollars.

Twelve inspectors each, of the livestock commission, one thousand dollars.

Railroad commissioners each, five thousand dollars.

Secretary of railroad commission, one thousand dollars.

Superintendent public instruction, three thousand dollars.

Secretary of state, ten thousand dollars.

Deputy secretary of state, two thousand dollars.

Chief clerk secretary of state, one thousand dollars.

All other clerks each, of secretary of state, one thousand dollars.

State veterinarian, one thousand dollars.

State treasurer, two hundred thousand dollars.

Deputy state treasurer, twenty-five thousand dollars.

Chief clerk of the state treasurer, twenty-five thousand dollars.

Assistant chief clerk of state treasurer, ten thousand dollars.

Bond clerk of state treasurer, five thousand dollars.

Income tax auditor, two thousand dollars."

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

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Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 16, 1937.

CHAPTER 162

An Act to Amend Section 2835 of the Revised Codes of Montana of 1935; Relating to Investigations of Cases Under Plan Three of the Workmen's Compensation Act; to Amend Section 2945 of the Revised Codes of Montana of 1935; Relating to the Cost and Disbursements in Proceedings or Hearings Under Plan Three of the Workmen's Compensation Act Within and Without the State of Montana; to Amend Section 2953 of the Revised Codes of Montana of 1935; Relating to Proceedings and Hearings Before the Industrial Accident Board and Attorney Fees Chargeable to Claimants; and to Repeal All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 2835 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Attorney general legal advisor of board.

"2835. **Attorney General Legal Adviser of Board.** The attorney general shall be the legal adviser of the board, and shall represent it in all proceedings whenever so requested by the board or any member thereof.

Board may employ attorney, when.

And it is further provided that the board may, in the investigation and defense of cases under plan three of the workmen's compensation act, employ such other attorney or legal adviser, as it deems necessary, and pay for the same out of the industrial accident fund."

Amending clause.

Section 2. That Section 2945 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Costs and disbursements.

"2945. **Apportionment of Costs and Disbursements.** The costs and disbursements incurred in any proceeding or hearing before the board, or a member thereof, may be apportioned between the parties on the same or adverse

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sides, in the discretion of the board. Costs and disbursements in any proceeding or hearing, arising out of cases under plan No. three may be paid from the industrial accident fund, and in the discretion of the industrial accident board, including the necessary traveling and other expenses and disbursements of the members of the board, its referees or officers or employees incurred while actually conducting investigations, hearings or proceedings, within or without the State of Montana."

Amending clause.

Section 3. That Section 2953 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Record of proceedings.

"2953. **Record of Proceedings to Be Kept and Testimony to Be Taken Down—Attorneys Fees.** A full and complete record shall be kept of all proceedings and hearings had before the board, or any member thereof, of any formal hearing had, and all testimony produced before the board or any member thereof shall be taken down by a stenographic reporter appointed by the board, and the parties shall be entitled to be heard in person or by attorney.

Testimony to be taken down.

Fixing attorney fee for claimant's attorney.

Whenever the claimant or plaintiff is represented by an attorney either before the board or the courts, the industrial accident board may, in its discretion or upon the application of the claimant or plaintiff, fix the amount of the attorney fee of the attorney representing the claimant or plaintiff, and the fee fixed by the board shall be paid by the claimant or plaintiff.

What constitutes record on review.

In cases of an action to review any order or decision of the board, a transcript of such testimony, together with all exhibits, and of the pleadings, records, and proceedings in the cause shall constitute the record of the board."

Section 4. All acts and parts of acts, in so far as the same are in conflict herewith, are hereby repealed.

Effective date.

Section 5. This act shall be in full force and effect upon its passage and approval.

Approved March 16, 1937.

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CHAPTER 163

An Act to Amend Section 4536 Revised Codes of Montana 1935, Relating to Burial of Deceased Soldiers, Sailors, Marines, and Army Nurses, and Providing When and in What Cases the Provisions Thereof May Be Effective.

Be it enacted by the Legislative Assembly of the State of Montana:

Veterans' burial supervisor.

Section 1. It shall be the duty of the board of commissioners of each county in this State to designate some proper person in the county, who shall be known as veterans' burial supervisor, preferably an honorably discharged soldier, sailor or marine, whose duty it shall be to cause to be decently interred the body of any honorably discharged soldier, sailor, marine or nurse who shall have served in the army, navy, marine corps or army nurse corps of the United States who may hereafter die. Such burial shall not be made in any burial grounds or cemetery, or in any portion of any burial grounds or cemetery, used exclusively for the burial of pauper dead; provided, (1) the expense of burial shall be the sum of one hundred fifty dollars ($150.00), to be paid by the county commissioners of the county in which the deceased was an actual bona fide resident at the time of death, and provided (2) that the benefits hereof shall not be available in the case of any decedent whose net estate, as determined by the inventory and appraisement filed in the course of administration thereon, shall exceed two thousand dollars ($2,000.00), nor in the case of any decedent whose executor, administrator or heirs waive the benefits hereof, and the board of county commissioners shall have authority to defer approval and allowance of any claims hereunder, in its discretion, until the filing of the inventory and appraisement aforesaid unless, in the judgment of the board, there is no substantial reason for deferring such action.

Duties of.

Restrictions as to burial.

Benefits hereof as dependent upon value of estate of decedent.

Death of discharged soldier while absent from state.

In the event any honorably discharged soldier, sailor, marine or nurse, who shall have served in the army or navy of the United States, and who is a resident of the State of Montana, shall die while temporarily absent from the state or county of his residence, then the provisions of this act shall apply, and the burial expenses not exceeding the amount herein specified shall be paid

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in the same manner as above provided, and the veterans' burial supervisor may take charge of said burial in the same manner as he would, had such deceased person died within the county of his residence.

Burial by public institution wherein soldier dies.

Whenever any soldier, sailor, marine, nurse or inmate hereinbefore described shall die at any public institution of the State of Montana, other than the state soldiers' home, and burial for any cause shall not be made in the county of the former residence of the deceased, the officers of said state institution, as aforesaid, shall provide the proper burial herein prescribed except that the expense of each burial shall not exceed the sum herein allowed, which expense shall be paid by the county in which the decedent resided at the time of entry into such institution, but no such burial shall be covered by any special or standing contract whereby the cost of burial is reduced below the maximum hereinbefore fixed, to the disparagement of proper interment.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force from and after its passage and approval.

Approved March 16, 1937.

CHAPTER 164

An Act to Amend Section 215 of the Revised Codes of Montana of 1935, Relating to the Duties of the State Examiner in the Examination of the Accounts of Cities, Towns and School Districts of the First and Second Class, and Providing a Fee for Such Examination.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 215 of the Revised Codes of Montana of 1935, be, and the same is hereby, amended to read as follows:

Examination of accounts of cities, towns and school districts.

Section 215. **Examination of Accounts of Cities, Towns and School Districts of the First and Second Class.** The state examiner in addition to the duties now imposed

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upon his office, shall have the power and authority and it shall be his duty, to make at least one examination each year of the books and accounts of all incorporated cities and towns and that it shall be his duty to examine the books and accounts of all school districts of the first and second class, in like manner as is now required by law for the examination of the books and accounts of state and county officers, provided that such examination shall be optional with the trustees of such district and shall be done only on their request. Provided, however, that the trustees of any school district must, during the month of June of each calendar year, notify the state examiner if such examination will be required, in which event it shall be the duty of the state examiner to make an examination of such school district during the fiscal year following receipt of said notice. If such school district request such examination a fee of fifteen dollars ($15.00) per day per man together with actual transportation expense must be paid by such district into the state treasury and the state treasurer shall accredit such payment to the special examiners fund. An examination may be made of the accounts and records of any school district by a qualified certified public accountant of the State of Montana when deemed advisable by the board of trustees.

Proviso, as to option of trustees of school district.

Fee payable by school district.

Examination by accountant.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 16, 1937.

CHAPTER 165

An Act to Amend Section 1015, Revised Codes of the State of Montana, 1935, Defining the Duties and Powers of Trustees, and to Give Boards of Trustees in School Districts of the First and Second Class Greater Powers.

Be it enacted by the Legislative Assembly of the State of Montana:

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Amending clause.

Section 1. That Section 1015, Revised Codes of the State of Montana, 1935, be, and the same is hereby amended to read as follows:

Duties of trustees.

Section 1015. **Duties of Trustees.** Every school board unless otherwise specially provided by law shall have power and it shall be its duty:

To prescribe rules.

1. To prescribe and enforce rules not inconsistent with law, or those prescribed by the superintendent of public instruction for their own government of schools under their supervision.

To employ teachers.

2. To employ or discharge teachers, mechanics, or laborers, and to fix and order paid their wages; provided, that no teacher shall be employed except under resolution agreed to by a majority of the board of trustees at a special or regular meeting; nor unless such teacher be the holder of a legal teacher's certificate in full force and effect. All contracts of employment of teachers, authorized by proper resolution of a board of trustees, shall be in writing and executed in duplicate by the chairman and clerk of the board, for the district and by the teacher.

How.

Teacher's certificate.

Contracts.

Tuition.

3. To determine the rate of tuition of non-resident pupils.

Salary of clerk.

4. To fix the compensation of the clerk.

Rules of superintendent of public instruction.

5. To enforce the rules and regulations of the superintendent of public instruction for the government of schools, pupils, and teachers and to enforce the course of study.

School furniture.

6. To provide for school furniture and for everything needed in the schoolhouse or for the use of the school board.

To repair, insure and rent school buildings.

7. To repair and insure schoolhouses and to rent, lease and let to such persons or entities as the board may deem proper, the grade school halls, gymnasium and buildings and part thereof for such time and rental as the board may designate. All rentals shall be paid to the county treasurer for the credit of the school district.

Acquire and dispose of land.

8. To purchase, acquire, sell and dispose of plots or parcels of land to be used as sites for schoolhouses, school dormitories and other school buildings, and for other purposes in connection with the schools in the district;

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Build school houses.

to build, purchase or otherwise acquire schoolhouses, school dormitories and other buildings necessary in the operation of schools of the district, and to sell and dispose of the same; provided, that they shall not build or remove schoolhouses or dormitories, nor purchase, sell or locate school sites unless directed so to do by a majority of the electors of the district voting at an election held in the district for that purpose, and such election shall be conducted and votes canvassed in the same manner as at the annual election of school officers, and notice thereof shall be given by the clerk by posting three notices in three public places in the district at least ten days prior to such election, which notices shall specify the time, place, and purpose of such election. Provided, further, that this subdivision shall not be so construed as to prevent the board of trustees from purchasing one or more options for a school site.

Proviso, as to vote on certain questions by electors.

To hold property in trust.

9. To hold in trust for their district all real or personal property for the benefit of the school thereof.

To suspend pupils.

10. To suspend or expel pupils from school who refuse to obey the rules thereof, and to exclude from school, children under six years of age where the interest of the school requires such exclusion.

Aid for indigent children.

11. To provide clothing and medical aid for indigent children when it shall be made to appear that such aid is needed; and when deemed advisable to employ a physician or registered nurse to make inspections into the sanitary conditions of the school and the general health conditions of each pupil, and to make a full, detailed report to the board of trustees. The clerk of the district shall furnish immediately to each parent or guardian a copy of such portion of the above-mentioned report as pertains to his child or ward.

Inspections by physician or nurse.

Pupils to have books.

12. To require pupils to be furnished with suitable books as a condition of membership in school.

Exclude immoral publications.

13. To exclude from school and school libraries all books, tracts, papers and other publications of immoral and pernicious nature.

14. To require teachers to conform to the law.

Annual report to county superintendent.

15. To make an annual report, as required by law, to the county superintendent on or before the first day of August in each year, in the manner and form and on the

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blanks prescribed and furnished by the superintendent of public instruction.

Report to superintendent of public instruction.

16. To make a report directly to the superintendent of public instruction whenever instructed by him to do so.

Course of study.

17. To determine what branches, if any, in addition to those required by law, shall be taught in any school in the district, subject to the approval of the county superintendent, in districts of the third class.

Visitation of schools.

18. To visit every school in their district at least once in each term, and to examine carefully into its management, conditions, and needs. This clause applies to each of the trustees.

To provide separate outhouses.

19. To provide separate privies or outhouses for the use of the sexes at all schoolhouses, where the same do not exist, and to see that the same are kept in good repair, and in a clean condition. Such privies or outhouses must be located and built in such manner as to secure privacy. In all cases where there is no fence dividing the play yards of the sexes, the privies or outhouses herein named shall be separate and distinct buildings, and situated at least twenty feet apart, and to require that all teachers and janitors use due care in keeping all toilets in good repair and in clean condition and free from obscenity; provided, that any trustee or trustees, teacher, janitor, or janitors, failing to comply with the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not exceeding one hundred dollars, or imprisoned in the county jail not exceeding ninety days, or both such fine and imprisonment in the discretion of the court.

Penalty.

Attendance of pupils residing in other districts.

20. To allow pupils residing in other districts to attend school in the district of which they have charge, if in their judgment there is sufficient room.

Display of American flag.

21. To procure, by purchase or donation, and to cause to be displayed daily in suitable weather, an American flag, with accompanying necessary fixtures, for each and every schoolhouse in their respective districts. Said flags shall be of dimensions not less than four by six feet, and shall be made from durable material. The school trustees are hereby authorized and empowered

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to use such portion of the school funds as remain in their hands, and which is not otherwise appropriated, for the purchase and erection of fixtures.

May close schools during session of state teachers' association.

22. To close school at their discretion during the annual session of the state teachers' association, and to allow teachers to attend the same without loss of salary.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 16, 1937.

CHAPTER 166

An Act to Amend Section 6968 of the Revised Codes of Montana of 1935, Relating to the Selection of Homestead and the Quantity and the Value of the Land Thereof and Repealing All Acts in Conflict Therewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 6968 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

"Section 6968. Homesteads may be selected and claimed:

Quantity of land.

1. Consisting of any quantity of land not exceeding three hundred and twenty (320) acres used for agricultural purposes, and the dwelling-house thereon and its appurtenances, and not included in any town plot, city or village; or

Land within a town or city.

2. A quantity of land not exceeding in amount one-fourth (¼) of an acre, being within a town plot, city or village, and the dwelling-house thereon and its appurtenances. Such homestead, in either case, shall not exceed in value the assessed value thereof, as appears on the assessment roll of the preceding year of the county in which the homestead selected and claimed is situate, in the sum of two thousand five hundred dollars ($2500.00). Such assessed value shall be the basis of and conclusive

Value.

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in any proceedings instituted affecting or relating to the value of such homestead."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 18, 1937.

CHAPTER 167

An Act to Amend Section 10088, of the Revised Codes of Montana of 1935, Relating to Bond of Administrators and Executors, Form and Requirement of.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 10088 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Bond of administrators and executors.

"Section 10088. **Bond of Administrators and Executors, Form and Requirement of.** Every person to whom letters testamentary or of administration are directed to issue must, before receiving them, execute a bond to the State of Montana, with two or more sufficient sureties or a sufficient surety company, to be approved by the district court, or a judge thereof. In form, the bond must be joint and several, and the penalty must not be less than the value of the personal property and the annual rents and profits of real property belonging to the estate, nor more than twice the value of such personal property and rents and profits; provided that upon written request of all the heirs, devisees or legatees and all being over twenty-one years of age and entitled to all of the estate upon distribution, the court may in its discretion fix the penalty of the bond at any sum less than the value of the personal property and the annual rents and profits of the real property belonging to the estate."

Form and penalty of bond.

Fixing penalty in lesser amount.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

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Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 18, 1937.

CHAPTER 168

An Act to Add to Chapter Number 159 of the Revised Codes of Montana of 1935, a Section to Be Designated Section 1805.19a Relating to Exchange of Lands by the State Board of Land Commissioners With the State Water Conservation Board.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That there be added to Chapter 159 of the Revised Codes of Montana of 1935, a section to be designated Section 1805.19a to read as follows:

Exchange of lands by state board of land commissioners with state water conservation board.

"Section 1805.19a. The state board of land commissioners of the State of Montana is hereby authorized to accept on behalf of the State of Montana title in fee simple to any land in the State of Montana owned by or title to which may be hereafter acquired by the state water conservation board of the State of Montana, and to convey in exchange therefor state owned land of approximately the same area and of a value not higher than the land received from the state water conservation board whenever such exchange will be beneficial or essential to the construction, maintenance or operation of any project now under construction or which may hereafter be approved by said state water conservation board for construction under the provisions of Chapter 135 of the Revised Codes of Montana of 1935, and whenever such exchange will also be advantageous to the land grant from which land is to be exchanged with the state water conservation board."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 18, 1937.

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CHAPTER 169

An Act to Amend Section 6915 of the Revised Codes of Montana of 1935, Relating to the Form of Acknowledgment by Corporation.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 6915 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

"Section 6915. The certificate of acknowledgment of an instrument executed by a corporation must be substantially in the following form:

Form of acknowledgment by corporation.

STATE OF.....}
County of.....} ss.

On this.....day of....., in the year....., before me (here insert the name and quality of the officer), personally appeared ....., known to me (or proved to me on the oath of.....) to be the president (or vice-president) or the secretary (or the assistant secretary) of the corporation that executed the within instrument (where, however, the instrument is executed in behalf of the corporation by some one other than the president, or vice-president, or secretary, or assistant secretary), insert: known to me (or proved to me on the oath of.....) to be the person who executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the same."

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 18, 1937.

CHAPTER 170

An Act to Amend Section 6893 of the Revised Codes of Montana of 1935, Relating to the Acknowledgment of Instruments Required, Except When.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 6893 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Acknowledgment of instruments required, except when.

"Section 6893. **Acknowledgment of Instruments Required, Except When.** Before an instrument can be recorded, unless it belongs to the class provided for in either Sections 6891, 6892, 6927, or 6928, its execution must be acknowledged by the person executing it, or, if executed by a corporation, by its president, vice-president, secretary, or assistant secretary, or other person duly authorized by resolution by such corporation executing the same on behalf of the corporation, or proved by a subscribing witness, or as provided in Sections 6923 and 6924, and the acknowledgment or proof certified in the manner prescribed by Sections 6905 to 6933 of this code."

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 18, 1937.

CHAPTER 171

An Act to Amend Section 6910 of the Revised Codes of Montana of 1935, Relating to the Officer Taking Acknowledgment, Must Know Person Making Acknowledgment.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 6910 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

"Section 6910. **Officer Taking Acknowledgment Must Know Person—Corporations.**

Officer taking acknowledgment must know person.

The acknowledgment of an instrument must not be taken unless the officer taking it knows or has satisfactory evidence, on the oath or affirmation of a credible

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witness, that the person making such acknowledgment is the individual who is described in and who executed the instrument; or, if executed by a corporation, that the person making such acknowledgment is the president, or vice-president, or secretary, or assistant secretary of such corporation, or other person duly authorized by resolution of such corporation, who executed it on its behalf."

Corporations.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved March 18, 1937.

CHAPTER 172

An Act to Amend Sections 555, 557, 561 and 570 of Chapter 61 of the Revised Codes of Montana of 1935, Relating to Who May Register, Notaries and Justices of the Peace as Deputy Registrars, Procedure Upon Change of Residence to Another County and Cancellation of Registry Cards, and Providing for the Cancellation of Registration and for Registration and Re-registration of All Electors of the State of Montana, and Providing Penalties for the Violation of This Act, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. In all counties within the State of Montana, the county clerk and ex officio "registrar" shall, within five (5) days after the first day of June, 1937, cancel all registrations of electors in the county and shall burn all "card indexes", "registry cards" and "affidavits" theretofore executed and signed by any elector for the purpose of registration; also, all copies of the registration books used at any elections theretofore held and shall preserve the "register" theretofore used as a permanent file of the office of the county clerk.

All registrations of electors to be cancelled.

Disposition of card indices, etc.

The county clerk must cause to be published in a newspaper of general circulation, published in the county,

Publication of notice.

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a notice which shall state that all registrations of electors will be cancelled as of the first day of June, 1937, and that duly qualified electors desiring to vote at any subsequent election in the State of Montana, are required to register in the manner and form provided for under the general registration laws, and laws amendatory thereto, of the State of Montana. Said notice shall be published once a week for a period of four consecutive weeks. Failure to publish said notice shall not affect a registration of electors, nor of any election thereafter held.

Amending clause.

Section 2. That Section 570 of Chapter 61 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Cancellation of registry cards.

"Section 570. The county clerk must cancel any registry card in the following cases:

By request.

1. At the request of the party registered.

Death or removal from county.

2. When he has personal knowledge of the death or removal from the county of the person registered, or when duly authenticated certificate of the death of any elector is filed in the names of vital statistics in his office.

Affidavits by three electors.

3. When there is presented and filed with the county clerk the separate affidavit of three qualified registered electors residing within the precinct, which affidavit shall give the name of such elector, his registry number and his residence, and which affidavit shall show that of the personal knowledge of the affiant, that any person registered does not reside or has removed from the place designated as the residence of such elector.

Insanity of elector.

4. When the insanity of the elector is legally established.

Conviction of felony.

5. Upon the production of a certified copy of a final judgment of conviction of any elector of felony.

Court judgment.

6. Upon the production of a certified copy of the judgment of any court directing the cancellation to be made.

Mode of cancellation.

7. Upon the cancellation of the registration of any elector as herein provided, the county clerk shall immediately remove from the official register herein provided for the registry of voters and shall deface the name of such elector on the official register by drawing a line

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through said entry in red ink and the county clerk shall mark the registry card of such elector across the face thereof in red ink with the word 'cancelled' and shall place such cancelled cards with the 'cancelled file', as provided for in Section 562.

Notice of cancellation.

All persons whose names are so removed, except as provided in Section 1 of this act, and stricken from the said registration books, card indexes, and register of electors, shall within forty-eight hours thereafter, be notified by the county clerk in writing of such removal, by sending a notice to such person to his or her post-office address, as appearing on such registration books, card indexes, and register of electors. If any persons, whose names are so removed, can and do prove to the county clerk that they are in fact citizens of the United States and otherwise qualified to vote, as provided by law of the State of Montana, then, and in that case, they shall be entitled to re-register as voters."

Re-registration.

Amending clause.

Section 3. That Section 561 of the Revised Codes of the State of Montana of 1935, be, and the same is hereby amended to read as follows:

Inquiry by clerk as to previous registration.

"Section 561. That in the case of all future registrations, as required by the election laws of the State of Montana, it shall be the duty of the clerk to question each person registering, and ascertain whether or not he has previously registered in the State of Montana. If the person desiring to register has previously registered, the county clerk shall enter his name in a separate file for such purpose, which said file shall be indexed by counties. Cards for such purpose shall be substantially in the following form:

Card file.

NAME..... RESIDENCE.....
(City) (County)
BIRTHPLACE..... AGE.....
PREVIOUS RESIDENCE.....
(City) (County)

Form of card.

In compliance with the election laws of the State of Montana, I am hereby submitting, for your information, the above named elector, who has, on....., 19....., registered as a resident entitled to vote in..... .....county, in order that his registration may be cancelled from the records in.....

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county, as provided by the election laws of the State of Montana.

Signature of elector: .....

Clerk and Recorder and ex officio registrar

.....

.....

County

Forwarding forms to other county.

Immediately, and not later than three (3) days after the closing of the registration books, the clerk shall forward the above forms to the clerk in the county in which applicant previously voted, either by registered mail or express, and receipt of delivery demanded, said receipt to be kept on file with other election records.

Cancellation of registration in county of previous voting.

Upon receiving such notice, it will be the duty of the clerk to immediately cancel the registration of the elector in his county, being the county in which said elector previously voted. This must be done by drawing a red line through the elector's name in the register, and also through his name on the registration card."

Amending clause.

Section 4. That Section 555 of Chapter 61 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Mode for registering.

"Section 555. Any elector residing within the county may register by appearing before the county clerk and ex officio registrar and making correct answers to all questions propounded by the county clerk touching the items of information called for by such registry card, and by signing and verifying the affidavit or affidavits on the back of such card.

Penalty for false representations, etc.

If any person shall falsely personate another and procure the person so personated to be registered, or if any person shall represent his name to the county clerk or to the registration clerk or to any other person qualified to register an elector, to be different from what it actually is, and cause such name to be registered, or if any person shall cause any name to be placed upon the registry lists otherwise than in the manner provided in this act, he shall be guilty of a felony, and upon conviction be imprisoned in the state penitentiary for not less than one (1) nor more than three (3) years."

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Amending clause.

Section 5. That Section 557 of Chapter 61 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Notaries public and justices of the peace as deputy registrars.

"Section 557. All notaries public and justices of the peace are designated as deputy registrars in the county in which they reside, and may register electors residing more than ten miles from the county courthouse in any precinct within the county. The county commissioners shall appoint a deputy registrar, other than notaries public and justices of the peace, for each precinct in the county. Such deputy registrar shall be a qualified, tax-paying resident elector in the precinct for which he is appointed and shall register electors in that precinct, and shall receive as compensation for his services the sum of ten (10) cents for each elector registered by him. Each deputy registrar shall forward by mail, within two (2) days, all registration cards filled out by him to the county clerk and recorder."

Appointment of deputy registrars.

Qualifications.

Compensation.

Penalty for violations of act.

Section 6. Any person who shall make false answers, either for himself or another, or shall violate or attempt to violate any of the provisions of this act, or knowingly encourage another to violate the same, or any public officer or officers, employees, deputies, or assistants, or other persons whomsoever, upon whom any duty is imposed by this act, or any of its provisions, who shall neglect such duty, or mutilate, destroy, secrete, alter or change any such registry books, cards or records required, or shall perform it in such way as to hinder the objects and purposes of this act, shall be deemed guilty of a felony, shall, upon conviction thereof, be punished by imprisonment in the state prison for a period of not less than one (1) year or more than ten (10) years, and if such person be a public officer, shall also forfeit his office, and never be qualified to hold public office, either elective or appointive, thereafter.

Repealing clause.

Section 7. That all acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 8. This act shall be in full force and effect from and after its passage and approval.

Approved March 18, 1937.

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CHAPTER 173

An Act to Amend Section 10269 of the Revised Codes of Montana, 1935, Relative to Petition for Executor or Administrator to Make Conveyance, and Notice of Hearing.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 10269 of the Revised Codes of Montana of 1935, be, and the same is hereby amended so as to read as follows:

Petition for conveyance by executor or administrator.

"Section 10269. On the presentation of a verified petition by the executor or administrator, or by any person claiming to be entitled to such conveyance from an executor or administrator, setting forth the facts upon which the claim is predicated, the court, or a judge thereof, shall appoint a time and place for hearing the petition, and shall order notice thereof to be served on the executor or administrator personally when he is not the petitioner, and a copy thereof served upon each known heir, or, in the event of minor or incompetent heirs, upon the duly appointed and qualified guardian for such incompetent or minor, not less than twenty (20) days prior to the date of said hearing; or the court may order notice by publication for four successive weeks and such newspaper in the county as the court may designate, provided, however, that if such contract was of record at the date of the death of the person executing such contract, then, in that event, notice of such hearing may be given by serving such notice on the executor or administrator personally, when he is not the petitioner, and posting such notice in three public places in the county where the court is held, for at least ten (10) days prior to the day fixed for the hearing; provided, further, that if the written consent of all the known heirs over the age of twenty-one (21) years and the guardian, duly authorized, of all minor or incompetent heirs be obtained and filed in the court before which said hearing is pending, then no other or further notices shall be required."

Notice.

Publication.

Proviso, as to existing contract of record.

Proviso, as to written consent by heirs.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 18, 1937.

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CHAPTER 174

An Act to Amend Sections 2711.1 and 2711.4 of the Revised Codes of Montana of 1935, Relating to Cutting, Moving, Raising or Interfering With Electric Wires and Lines.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 2711.1 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows: Amending clause.

"Section 2711.1. **Moving of Structures—Interference With Electric Wires.** No person, firm or corporation moving, hauling or transporting any house, building, derrick or other structure shall cut, move, raise or in any manner interfere with an electric light or electric power wire or poles, or with telephone or telegraph wires or poles, without giving notice to the owner or agent of said wires or poles, as hereinafter provided." Moving of structures, interfering with electric wires.

Section 2. That Section 2711.4 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows: Amending clause.

"Section 2711.4. **Interference With Lines.** It shall be unlawful for any person, firm or corporation engaged as principal or employer in moving any house, building, derrick or other structure, as provided in the above sections, to move, touch, cut, molest or in any way interfere with any electric light, electric power, telephone or telegraph wires, or any poles bearing any such wires, except in compliance with the provisions of this act." Interference with lines.

Section 3. This act shall be in full force and effect from and after its passage and approval. Effective date.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved March 18, 1937.

CHAPTER 175

An Act to Amend Section 9111 of the Revised Codes of Montana, 1935, Relating to Summons and How a Sum-

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mons Is Served; and Providing for the Method of Service of a Summons in Cases Where a Corporation Has Forfeited Its Charter or Right to Do Business in This State.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 9111 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Summons, how served.

"Section 9111. **Summons—How Served.** The summons must be served by delivering a copy thereof, as follows:

Domestic corporation.

1. If the suit is against a corporation formed under the laws of this State, to the president or other head of the corporation, secretary, cashier, or managing agent thereof.

Foreign corporation.

2. If the suit is against a foreign corporation, or a nonresident joint stock company or association, doing business and having a managing or business agent, cashier, or secretary within this State, to such agent, cashier or secretary, or to a person designated as provided in Section 6652 of the civil code.

Against a minor.

3. If against a minor under the age of fourteen years, residing within this State, to such minor, personally, and also to his father, mother, or guardian; or, if there be none within this State, then to any person having the care or control of such minor, or with whom he resides, or in whose service he is employed.

Against an incompetent.

4. If against a person residing within this State, who has been judicially declared to be of unsound mind, or incapable of conducting his own affairs, and for whom a guardian has been appointed, to such person, and also to his guardian.

County, city or town.

5. If against a county, city or town, to the president or chairman of the board of county commissioners, president of the council or trustees, mayor, or other head of the legislative department thereof.

Defunct corporations.

6. If the suit is against a corporation whose charter or right to do business in the State has expired or been forfeited, by delivering a copy thereof to any one of the persons who have become trustees for the corporation and its stockholders or members, and if none such can

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be found, service may be made upon the secretary of state in the manner prescribed by Section 9112 of the Montana Revised Codes.

7. In all other cases to the defendant personally." Defendant personally.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved March 18, 1937.

CHAPTER 176

An Act Providing for Regulation of the Preparation, Possession and Sale of Narcotics in the State of Montana; Defining Certain Words and Phrases in Connection Therewith; Providing for the Issuance of Licenses and Qualifications Therefor; Defining the Lawful Possession Thereof; Exempting Certain Preparations in Which Narcotics May Be Used; Providing for Certain Records to Be Kept; Providing for the Manner of Keeping, Form and Preservation of Such Records; Providing for the Use of Labels on Narcotic Drugs; Defining the Unlawful Possession of Narcotic Drugs; Providing for the Issuance and Execution of Warrants, and for the Seizure of Narcotic Drugs; Providing for the Disposition of Such Narcotic Drugs, Implements, Furniture, Fixtures, Vehicles, and Other Articles so Seized; Defining the Duties of Peace Officers to Arrest Offenders and to Seize Narcotic Drugs; Forbidding the Replevin of Narcotic Drugs and Other Property; Defining Nuisances in Connection Therewith; Defining Certain Powers and Duties of the Secretary of the State Board of Health in Connection With the Provisions of This Act; Relating to Obtaining of Narcotics by Fraud and Deceit; Providing for Enforcement and Cooperation for and in Accordance With the Provisions of This Act; Defining the Effect of Acquittal and Conviction Under the Federal Narcotic Laws; Relating to the Constitutionality of This Act; Relating to the Interpretation of This Act; Repealing Sections 3189, 3190, 3191, 3192, 3193, 3199, 3200, 3201, 3202,

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3202.3, 3202.4, 3202.5, 3202.6, of the Revised Codes of Montana, 1935, and All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Definitions.

Section 1. The following words and phrases, as used in this act, shall have the following meanings, unless the context otherwise requires:

"Person."

(1) "Person" includes any corporation, association, copartnership, or one or more individuals.

"Physician."

(2) "Physician" means a person authorized by law to practice medicine in this State and any other person authorized by law to treat sick and injured human beings in this State and to use narcotic drugs in connection with such treatment.

"Dentist."

(3) "Dentist" means a person authorized by law to practice dentistry in this State.

"Veterinarian."

(4) "Veterinarian" means a person authorized by law to practice veterinary medicine in this State.

"Manufacturer."

(5) "Manufacturer" means a person who by compounding, mixing, cultivating, growing, or other process, produces or prepares narcotic drugs, but does not include an apothecary who compounds narcotic drugs to be sold or dispensed on prescriptions.

"Wholesaler."

(6) "Wholesaler" means a person who supplies narcotic drugs that he himself has not produced or prepared, on official written orders, but not on prescriptions.

"Apothecary."

(7) "Apothecary" means a licensed pharmacist as defined by the laws of this State and, where the context so requires, the owner of a store or other place of business where narcotic drugs are compounded or dispensed by a licensed pharmacist; but nothing in this act shall be construed as conferring on a person who is not registered nor licensed as a pharmacist any authority, right, or privilege, that is not granted to him by the pharmacy laws of this State.

"Hospital."

(8) "Hospital" means an institution for the care and treatment of the sick and injured, approved by the secretary of the state board of health as proper to be entrusted with the custody of narcotic drugs and the pro-

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fessional use of narcotic drugs under the direction of a physician, dentist, or veterinarian.

(9) "Laboratory" means a laboratory approved by the secretary of the state board of health as proper to be entrusted with the custody of narcotic drugs and the use of narcotic drugs for scientific and medical purposes and for purposes of instruction. "Laboratory."

(10) "Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as principal, proprietor, agent, servant, or employee. "Sale."

(11) "Coca leaves" includes cocaine and any compound, manufacture, salt, derivative, mixture, or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine, ecgonine, or substances from which cocaine or ecgonine may be synthesized or made. "Coca leaves"

(12) "Opium" includes morphine, codeine, and heroin, and any compound, manufacture, salt, derivative, mixture or preparation of opium, but does not include apomorphine or any of its salts. "Opium."

(13) "Cannabis" includes the following substances under whatever names they may be designated: (a) The dried flowering or fruiting tops of the pistillate plant Cannabis Sativa L., from which the resin has not been extracted, (b) the resin extracted from such tops, and (c) every compound, manufacture, salt, derivative, mixture, or preparation of such resin, or of such tops from which the resin has not been extracted, and (d) marihuana seeds or plants. "Cannabis"

(14) "Narcotic drugs" means coca leaves, opium, cannabis, marihuana, Indian hemp, and every substances neither chemically nor physically distinguishable from them. "Narcotic drugs."

(15) "Federal narcotic laws" means the laws of the United States relating to opium, coca leaves, and other narcotic drugs. "Federal narcotic laws."

(16) "Official written order" means an order written on a form provided for that purpose by the United States commissioner of narcotics, under any laws of the United States making provision therefor, if such order forms "Official written order."

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are authorized and required by federal law, and if no such order form is provided, then on an official form provided for that purpose by the secretary of the state board of health.

"Dispense." (17) "Dispense" includes distribute, leave with, give away, dispose of, or deliver.

"Registry number." (18) "Registry number" means the number assigned to each person registered under the federal narcotic laws.

Acts prohibited. Section 2. **Acts Prohibited.** It shall be unlawful for any person to manufacture, possess, knowingly permit to grow, have under his control, sell, prescribe, administer, dispense, or compound any narcotic drug, except as authorized in this act.

Manufacturers and wholesalers. Section 3. **Manufacturers and Wholesalers.** No person shall manufacture, compound, mix, cultivate, grow, or by any other process produce or prepare narcotic drugs, and no person as a wholesaler shall supply the same, without having first obtained a license so to do from the secretary of the state board of health.

Qualifications for licenses. Section 4. **Qualification for Licenses.** No license shall be issued under the foregoing section unless and until the applicant therefor has furnished proof satisfactory to the secretary of the state board of health:

Moral character. (a) That the applicant is of good moral character or, if the applicant be an association or corporation, that the managing officers are of good moral character.

Equipment. (b) That the applicant is equipped as to land, buildings, and paraphernalia properly to carry on the business described in his application.

Person previously convicted. No license shall be granted to any person who has within five years been convicted of a willful violation of any law of the United States, or of any state, relating to opium, coca leaves, or other narcotic drugs, or to any person who is a narcotic drug addict. The secretary of the state board of health may suspend or revoke any license for cause.

Suspension of license for cause.

Section 5. **Sale on Written Orders.**

Sale on written orders. (1) A duly licensed manufacturer or wholesaler may sell and dispense narcotic drugs to any of the following persons, but only on official written orders:

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(a) To a manufacturer, wholesaler or apothecary.

(b) To a physician, dentist, or veterinarian.

(c) To a person in charge of a hospital, but only for use by or in that hospital.

(d) To a person in charge of a laboratory, but only for use in that laboratory for scientific and medical purposes.

Sale on special orders.

(2) A duly licensed manufacturer or wholesaler may sell narcotic drugs to any of the following persons:

To employee of United States or of a state.

(a) On a special written order accompanied by a certificate of exemption, as required by the federal narcotic laws, to a person in the employ of the United States government or of any state, territorial, district, county, municipal, or insular government, purchasing, receiving, possessing, or dispensing narcotic drugs by reason of his official duties.

To master of a ship or person in charge of any aircraft.

(b) To a master of a ship or a person in charge of any aircraft upon which no physician is regularly employed, for the actual medical needs of persons on board such ship or aircraft, when not in port. Provided: Such narcotic drugs shall be sold to the master of such ship or person in charge of such aircraft only in pursuance of a special order form approved by a commissioned medical officer or acting assistant surgeon of the United States public health service.

To person in foreign country.

(c) To a person in a foreign country if the provisions of the federal narcotic laws are complied with.

Use of official written orders.

(3) **Use of Official Written Orders.** An official written order for any narcotic drug shall be signed in duplicate by the person giving said order or by his duly authorized agent. The original shall be presented to the person who sells or dispenses the narcotic drug or drugs named therein. In event of the acceptance of such order by said person, each party to the transaction shall preserve his copy of such order for a period of two years in such a way as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this act. It shall be deemed a compliance with this subsection if the parties to the transaction have complied with the federal narcotic laws, respecting the requirements governing the use of order forms.

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Possession lawful, when.

(4) **Possession Lawful.** Possession of or control of narcotic drugs obtained as authorized by this section shall be lawful if in the regular course of business, occupation, profession, employment, or duty of the possessor.

Administration or use within state.

(5) A person in charge of a hospital or of a laboratory, or in the employ of this State or of any other state, or of any political subdivision thereof, and a master or other proper officer of a ship or aircraft, who obtains narcotic drugs under the provisions of this section or otherwise, shall not administer, nor dispense, nor otherwise use such drugs, within this State, except within the scope of his employment or official duty, and then only for scientific or medicinal purposes and subject to the provisions of this act.

Section 6. **Sales by Apothecaries.**

Sales by apothecaries.

(1) An apothecary, in good faith, may dispense and sell narcotic drugs to any person upon a written prescription of a physician, dentist, or veterinarian, dated and signed by the person prescribing on the day when issued and bearing the full name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and the full name, address, and registry number under the federal narcotic laws of the person prescribing, if he is required by those laws to be so registered. If the prescription be for an animal, it shall state the species of animal for which the drug is prescribed. The person filling the prescription shall write the date of filling and his own signature on the face of the prescription. The prescription shall be retained on file by the proprietor of the pharmacy in which it is filled for a period of two years, so as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this act. The prescription shall not be refilled.

Written prescription.

Refilling prohibited.

Upon discontinuance in business.

(2) The legal owner of any stock of narcotic drugs in a pharmacy, upon discontinuance of dealing in said drugs, may sell said stock to a manufacturer, wholesaler, or apothecary, but only on an official written order.

Sale to physician, dentist or veterinarian.

(3) An apothecary, only upon an official written order, may sell to a physician, dentist, or veterinarian, in quantities not exceeding one ounce at any one time, aqueous or oleaginous solutions of which the content of narcotic drugs does not exceed a proportion greater than

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twenty percent of the complete solution to be used for medical purposes.

Section 7. **Professional Use of Narcotic Drugs.**

Use by physicians and dentists.

(1) Physicians and Dentists. A physician or a dentist, in good faith and in the course of his professional practice only, may prescribe, administer, and dispense narcotic drugs, or he may cause the same to be administered by a nurse or interne under his direction and supervision.

Veterinarians.

(2) Veterinarians. A veterinarian, in good faith and in the course of his professional practice only, and not for use by a human being, may prescribe, administer, and dispense narcotic drugs, and he may cause them to be administered by an assistant or orderly under his direction and supervision.

Preparations exempted.

Section 8. **Preparations Exempted.** Except as otherwise in this act specifically provided, this act shall not apply to the following cases:

Limitations as to quantity.

(1) Prescribing, administering, dispensing, or selling at retail of any medicinal preparation that contains in one fluid ounce, or if a solid or semi-solid preparation, in one avoirdupois ounce, (a) not more than two grains of opium, (b) not more than one-quarter grain of morphine or of any of its salts, (c) not more than one grain of codeine or of any of its salts, (d) not more than one-eighth of a grain of heroin or of any of its salts, (e) not more than one-half of a grain of extract of cannabis nor more than one-half of a grain of any more potent derivative or preparation of cannabis; (f) and not more than one of the drugs named above in clauses (a), (b), (c), (d), and (e).

Liniments, etc. for external use.

(2) Prescribing, administering, dispensing, or selling at retail of liniments, ointments, and other preparations, that are susceptible of external use only and that contain narcotic drugs in such combinations as prevent their being readily extracted from such liniments, ointments, or preparations, except that this act shall apply to all liniments, ointments, and other preparations, that contain coca leaves in any quantity or combination.

Conditions of exemptions.

The exemptions authorized by this section shall be subject to the following conditions:

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(a) No person shall prescribe, administer, dispense, or sell under the exemptions of this section, to any one person, or for the use of any one person or animal, any preparation or preparations included within this section, when he knows, or can by reasonable diligence ascertain, that such prescribing, administering, dispensing, or selling will provide the person to whom or for whose use, or the owner of the animal for the use of which, such preparation is prescribed, administered, dispensed, or sold within any forty-eight consecutive hours, with more than four grains of opium, or more than one-half grain of morphine or of any of its salts, or more than four grains of codeine or of any of its salts, or more than one grain of extract of cannabis or one grain of any more potent derivative or preparation of cannabis, or more than one-quarter of a grain of heroin or of any of its salts, or will provide such person or the owner of such animal, within 48 consecutive hours, with more than one preparation exempted by this section from the operations of this act.

As to quantity.

(b) The medicinal preparation, or the liniment, ointment, or other preparation susceptible of external use only, prescribed, administered, dispensed, or sold, shall contain, in addition to the narcotic drug in it, some drug or drugs conferring upon it medicinal qualities other than those possessed by the narcotic drug alone. Such preparations shall be prescribed, administered, dispensed, and sold in good faith as a medicine, and not for the purpose of evading the provisions of this act.

Preparation to contain other than narcotic drugs.

Prescription as a medicine.

Nothing in this section shall be construed to limit the kind and quantity of any narcotic drug that may be prescribed, administered, dispensed, or sold, to any person or for the use of any person or animal, when it is prescribed, administered, dispensed, or sold, in compliance with the general provisions of this act.

Construction of this section.

Section 9. **Record to Be Kept.**

(1) Physicians, Dentists, Veterinarians, and Other Authorized Persons. Every physician, dentist, veterinarian, or other person who is authorized to administer or professionally use narcotic drugs, shall keep a record of such drugs received by him, and a record of all such drugs administered, dispensed, or professionally used by him otherwise than by prescription. It shall, however, be deemed a sufficient compliance with this subsection

Physicians, etc., to keep record.

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if any such person using small quantities of solutions or other preparations of such drugs for local application, shall keep a record of the quantity, character, and potency of such solutions or other preparations purchased or made up by him, and of the dates when purchased or made up, without keeping a record of the amount of such solution or other preparation applied by him to individual patients.

Record not required, when.

Provided: That no record need be kept of narcotic drugs administered, dispensed, or professionally used in the treatment of any one patient, when the amount administered, dispensed, or professionally used for that purpose does not exceed in any forty-eight consecutive hours, (a) four grains of opium, or (b) one-half of a grain of morphine or of any of its salts, or (c) two grains of codeine or of any of its salts, or (d) one-fourth of a grain of heroin or of any of its salts, or (e) one grain of extract of cannabis or one grain of any more potent derivative or preparation of cannabis, or (f) a quantity of any other narcotic drug or any combination of narcotic drugs that does not exceed in pharmacologic potency any one of the drugs named above in the quantity stated.

Records by manufacturers and wholesalers.

(2) Manufacturers and Wholesalers. Manufacturers and wholesalers shall keep records of all narcotic drugs compounded, mixed, cultivated, grown, or by any other process produced or prepared, and of all narcotic drugs received and disposed of by them, in accordance with the provisions of subsection 5 of this section.

Records by apothecaries.

(3) Apothecaries. Apothecaries shall keep records of all narcotic drugs received and disposed of by them, in accordance with the provisions of subsection 5 of this section.

Vendors of exempted preparations.

(4) Vendors of Exempted Preparations. Every person who purchases for resale, or who sells narcotic drug preparations exempted by Section 8 of this act, shall keep a record showing the quantities and kinds thereof received and sold, or disposed of otherwise, in accordance with the provisions of subsection 5 of this section.

Form and preservation of records.

(5) Form and Preservation of Records. The form of records shall be prescribed by the secretary of the state board of health. The record of narcotic drugs received shall in every case show the date of receipt, the name and address of the person from whom received, and the

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kind and quantity of drugs received; the kind and quantity of narcotic drugs produced or removed from process of manufacture, and the date of such production or removal from process of manufacture; and the record shall in every case show the proportion of morphine, cocaine, or ecgonine contained in or producible from crude opium or coca leaves received or produced; and the proportion of resin contained in or producible from the dried flowering or fruiting tops of the pistillate plant Cannabis Sativa L., from which the resin has not been extracted, received or produced. The record of all narcotic drugs sold, administered, dispensed, or otherwise disposed of, shall show the date of selling, administering, or dispensing, the name and address of the person to whom, or for whose use, or the owner and species of animal for which the drugs were sold, administered or dispensed, and the kind and quantity of drugs. Every such record shall be kept for a period of two years from the date of the transaction recorded. The keeping of a record required by or under the federal narcotic laws, containing substantially the same information as is specified above, shall constitute compliance with this section, except that every such record shall contain a detailed list of narcotic drugs lost, destroyed, or stolen, if any, the kind and quantity of such drugs, and the date of the discovery of such loss, destruction, or theft.

Record required by federal narcotic laws.

Section 10. **Labels.**

(1) Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind and form of narcotic drug contained therein. No person, except an apothecary for the purpose of filling a prescription under this act, shall alter, deface, or remove any label so affixed.

Labels by manufacturer or wholesaler.

Alteration or removal.

(2) Whenever an apothecary sells or dispenses any narcotic drug on a prescription issued by a physician, dentist, or veterinarian, he shall affix to the container in which such drug is sold or dispensed, a label showing his own name, address, and registry number, or the name, address, and registry number of the apothecary for whom he is lawfully acting; the name and address of the patient

Labels by apothecary.

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or, if the patient is an animal, the name and address of the owner of the animal and the species of the animal; the name, address, and registry number of the physician, dentist, or veterinarian, by whom the prescription was written; and such directions as may be stated on the prescription. No person shall alter, deface, or remove any label so affixed.

Authorized possession of narcotic drugs by individuals.

Section 11. **Authorized Possession of Narcotic Drugs by Individuals.** A person to whom or for whose use any narcotic drug has been prescribed, sold, or dispensed, by a physician, dentist, apothecary, or other person authorized under the provisions of Section 5 of this act, and the owner of any animal for which any such drug has been prescribed, sold, or dispensed, by a veterinarian, may lawfully possess it only in the container in which it was delivered to him by the person selling or dispensing the same.

Search and seizure.

Section 12. **Issuance and Execution of Search Warrant —Seizure of Narcotic Drugs.** If upon the sworn complaint of any person, it shall be made to appear to any judge of the district court that there is probable cause to believe that narcotic drugs are being manufactured, sold, exchanged, given away, bartered, or otherwise disposed of, or kept contrary to law, such judge shall, with or without the approval of the county attorney, issue a warrant directed to any peace officer in the county, commanding him to search the premises designated and described in such complaint and warrant, and to seize all narcotic drugs there found, together with vessels and vehicles in which it is contained, and all implements, furniture, fixtures and other articles used or kept for the illegal manufacture, sale, barter, exchange, giving away, furnishing, or otherwise disposing of such narcotic drugs and to safely keep the same, and to make a return of said warrant within three days, showing all acts and things done thereunder, with a particular statement of all narcotic drugs, implements, furniture, fixtures, vehicles, and other articles seized, and the name of the person or persons in whose possession the same were found, if any, and if no person be found in the possession of the same, the return shall so state. No warrant shall be issued to search a private dwelling occupied as such, unless some part of it is used as a store or shop, hotel or boarding house, or for any other purpose than a pri-

Warrant.

Search of private dwelling.

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vate residence, or unless such residence is a place of public resort. A copy of said warrant shall be served upon the person or persons found in possession of any such narcotic drugs, furniture, fixtures, vehicles, or articles so seized, and if no person be found in possession thereof, a copy of said warrant shall be posted on the door of the building or room wherein the same were found, or if there be no door, then in any conspicuous place upon the premises.

Serving warrant.

Hearing of return.

Section 13. **Hearing of Return—Disposal of Narcotic Drugs and Other Articles Seized.** Upon the return of the warrant as provided in the last preceding section, the judge shall fix the time, not less than ten days nor more than twenty days thereafter, for the hearing of said return, when the court shall proceed to hear and determine whether or not the implements, furniture, fixtures, vehicles, or other articles so seized, or any part thereof, were used or in any manner kept or possessed by any person with the intention of violating any of the provisions of the laws of this State relating to narcotic drugs. At such hearing any person claiming any interest in any of the implements, furniture, fixtures, vehicles, or other articles seized, may appear and be heard upon filing a verified claim setting forth particularly the character and extent of his interest, but upon such hearing the sworn complaint or affidavit upon which the search warrant was issued and the possession of such narcotic drugs shall be prima facie evidence of the contraband character of the drugs and implements, furniture, fixtures, vehicles and other articles seized, and the burden shall rest upon the claimant to show, by competent evidence, his property right or interest therein, and that the same were not used in violation of, and were not in any manner kept or possessed with the intention of violating any of the provisions of the laws of this State relating to narcotic drugs. If, upon such hearing, the evidence warrants, or if no person shall appear as claimant, the court shall thereupon enter a judgment of forfeiture and order such implements, furniture, fixtures, vehicles and articles destroyed forthwith by the officer having custody of the same at the time of adjudication; provided, however, the judge may, in his discretion, appoint a special officer for the purpose of executing the judgment of forfeiture by destroying said drugs and property; provided, further, however, that if in the opinion of the

Sworn complaint as prima facie evidence.

Judgment of forfeiture.

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judge any of such forfeited vehicles or property, is of value and adapted to any lawful use, such judge shall, as a part of the order and judgment, direct that such property, other than narcotic drugs, shall be sold as upon execution by the officer having them in custody, and the proceeds of such sale, after the payment of all costs of such proceeding, shall be paid into the common school fund of the school district in which the same were seized. Action under this section and the forfeiture, destruction, or sale of any property thereunder, shall not be a bar to any prosecution under any other provision or provisions of the laws of this State relating to narcotic drugs and provided further, that all narcotic drugs so seized shall be held in the custody of the court issuing the order, for disposition as otherwise provided in this act.

Forfeiture not to bar prosecution under other provisions of act.

(14) **Duty of Peace Officers to Arrest Offenders and Seize Narcotic Drugs.** When any violation of any provisions of the laws of this State relating to narcotic drugs shall occur in the presence of any sheriff, constable, marshal, or other officer having power to serve criminal process, it shall be the duty of such officer without warrant, to arrest the offender, and to seize the drugs, furniture, fixtures, vessels, vehicles and appurtenances thereunto belonging, so unlawfully used, and to take such offender immediately before the court or judge having jurisdiction in the premises and there make complaint under oath, charging the offense so committed, and he shall also make return setting forth a particular description of the narcotic drugs and property seized and of the place and where the same was so seized, whereupon the court or judge shall issue a warrant commanding and directing the officer to hold in his possession the property so seized, until discharged by process of law, and such property shall be held and a hearing or adjudication on said return had in like manner as if the seizure had been made upon a warrant therefor.

Duty of peace officers to arrest offenders, etc.

Warrant for holding seized property.

Section 15. **Replevin of Narcotic Drugs and Other Property Forbidden.** No narcotic drugs, vessels, fixtures, furniture or other property seized by authority of any warrant issued under the provisions of this act shall be taken from the possession of the officer seizing the same under any replevin or other process.

Replevin of seized property forbidden.

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Fines and costs a lien on real estate.

Section 16. **Fines and Costs a Lien on Property—Disposal of.** All fines and costs assessed against any person for any violation of any of the provisions of the laws of this State relating to narcotic drugs, shall be a lien upon the real estate of such person until paid; and in case any person shall let or lease any building or premises, and shall knowingly suffer the same to be used and occupied for the manufacture or sale of narcotic drugs, the premises so leased and occupied shall be subject to lien for, and may be sold to pay all fines and costs assessed against any such occupant for any violation of this act; and such liens may be enforced by civil action in any court having jurisdiction; provided, that the person against whom such fines and costs are assessed shall be committed to the jail of the county until such fines and costs are paid.

Leased premises.

Collection of fines and costs.

When possession not unlawful.

Section 17. **Persons and Corporations Exempted.** The provisions of this act restricting the possessing and having control of narcotic drugs shall not apply to common carriers or to warehousemen, while engaged in lawfully transporting or storing such drugs, or to any employee of the same acting within the scope of his employment; or to public officers or their employees in the performance of their official duties requiring possession or control of narcotic drugs; or to temporary incidental possession by employees or agents of persons lawfully entitled to possession, or by persons whose possession is for the purpose of aiding public officers in performing their official duties.

Common nuisances.

Section 18. **Common Nuisances.** Any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft, or any place whatever, which is resorted to by narcotic drug addicts for the purpose of using narcotic drugs or which is used for the illegal keeping or selling of the same, shall be deemed a common nuisance. No person shall keep or maintain such a common nuisance.

Disposition of narcotic drugs unlawfully possessed.

Section 19. **Narcotic Drugs to Be Delivered to State Official, etc.** All narcotic drugs, the lawful possession of which is not established or the title to which cannot be ascertained, which have come into the custody of a peace officer, shall be forfeited, and disposed of as follows:

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Forfeiture and destruction.

(a) Except as in this section otherwise provided, the court or magistrate having jurisdiction shall order such narcotic drugs forfeited and destroyed. A record of the place where said drugs were seized, of the kinds and quantities of drugs so destroyed, and of the time, place, and manner of destruction, shall be kept, and a return under oath, reporting said destruction, shall be made to the court or magistrate and to the United States commissioner of narcotics, by the officer who destroys them.

Delivery to secretary of state board of health.

(b) Upon written application by the secretary of the state board of health, the court or magistrate by whom the forfeiture of narcotic drugs has been decreed may order the delivery of any of them, except heroin and its salts and derivatives, to said secretary of the state board of health, for distribution or destruction, as hereinafter provided.

Delivery to hospitals.

(c) Upon application by any hospital within this State, not operated for private gain, the secretary of the state board of health may in his discretion deliver any narcotic drugs that have come into his custody by authority of this section to the applicant for medicinal use. The secretary of the state board of health may from time to time deliver excess stocks of such narcotic drugs to the United States commissioner of narcotics, or may destroy the same.

Record of receipt and disposition by secretary of state board of health.

(d) The secretary of the state board of health, shall keep a full and complete record of all drugs received and of all drugs disposed of, showing the exact kinds, quantities, and forms of such drugs; the persons from whom received and to whom delivered; by whose authority received, delivered, and destroyed; and the dates of the receipt, disposal, or destruction, which record shall be open to inspection by all federal or state officers charged with the enforcement of federal and state narcotic laws.

Notice of conviction.

Section 20. **Notice of Conviction to Be Sent to Licensing Board.** On the conviction of any person of the violation of any provision of this act, a copy of the judgment and sentence, and of the opinion of the court or magistrate, if any opinion be filed, shall be sent by the clerk of the court, or by the magistrate, to the board or officer, if any, by whom the convicted defendant has been licensed or registered to practice his profession or to

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Revocation of license of convicted defendant.

carry on his business. On the conviction of any such person, the court may, in its discretion, suspend or revoke the license or registration of the convicted defendant to practice his profession or to carry on his business. On the application of any person whose license or registration has been suspended or revoked, and upon proper showing and for good cause, said board or officers may reinstate such license or registration.

Reinstatement.

Records open to official inspection.

Section 21. **Records Confidential.** Prescriptions, orders, and records required by this act, and stocks of narcotic drugs, shall be open for inspection only to federal, state, county, and municipal officers, whose duty it is to enforce the laws of this State or of the United States relating to narcotic drugs. No officer having knowledge by virtue of his office of any such prescription, order, or record shall divulge such knowledge, except in connection with a prosecution or proceeding in court or before a licensing or registration board or officer, to which prosecution or proceeding the person to whom such prescriptions, orders, or records relate is a party.

Information confidential.

Section 22. **Fraud or Deceit.**

Obtaining narcotic drug by fraud or deceit.

(1) No person shall obtain or attempt to obtain a narcotic drug, or procure or attempt to procure the administration of a narcotic drug, (a) by fraud, deceit, misrepresentation, or subterfuge; or (b) by the forgery or alteration of a prescription or of any written order; or (c) by the concealment of a material fact; or (d) by the use of a false name or the giving of a false address.

Not privileged communication.

(2) Information communicated to a physician in an effort unlawfully to procure a narcotic drug, or unlawfully to procure the administration of any such drug, shall not be deemed a privileged communication.

False statement.

(3) No person shall wilfully make a false statement in any prescription, order, report, or record, required by this act.

False representations.

(4) No person shall, for the purpose of obtaining a narcotic drug, falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person.

False prescription.

(5) No person shall make or utter any false or forged prescription or false or forged written order.

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False label.

(6) No person shall affix any false or forged label to a package or receptacle containing narcotic drugs.

Application of this section.

(7) The provisions of this section shall apply to all transactions relating to narcotic drugs under the provisions of Section 8 of this act, in the same way as they apply to transactions under all other sections.

Exceptions need not be negatived.

Section 23. **Exceptions and Exemptions Not Required to Be Negatived.** In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of any provisions of this act, it shall not be necessary to negative any exception, excuse, proviso, or exemption, contained in this act, and the burden of proof of any such exception, excuse, proviso, or exemption, shall be upon the defendant.

Burden of proof.

Enforcement and cooperation.

Section 24. **Enforcement and Cooperation.** It is hereby made the duty of the secretary of the state board of health, its officers, agents, inspectors, and representatives, and of all peace officers within the State, and of all county attorneys, to enforce all provisions of this act, except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this State, and of all other states, relating to narcotic drugs.

Penalties.

Section 25. **Penalties.** Any person violating any provision of this act shall upon conviction be punished, for the first offense by a fine not exceeding one thousand dollars ($1,000.00) or by imprisonment in the county jail for not exceeding six (6) months or by both such fine and imprisonment, and for any subsequent offense, by a fine not exceeding five thousand dollars, ($5,000.00) or by imprisonment in the state prison for not exceeding five (5) years, or by both such fine and imprisonment. Any person who sells, barters, exchanges, distributes, gives away, or in any manner disposes of any of the drugs in violation of the provisions of this act, to any person of the age of eighteen (18) years, or under, shall upon conviction be punished by imprisonment in the state prison for not less than five years nor more than life.

Effect of acquittal or conviction under federal narcotic laws.

Section 26. **Effect of Acquittal or Conviction Under Federal Narcotic Laws.** No person shall be prosecuted for the violation of any provision of this act if such person has been acquitted or convicted under the federal

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narcotic laws of the same act or omission which it is alleged, constitutes a violation of this act.

Validity of act.

Section 27. **Constitutionality.** If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Interpretation.

Section 28. **Interpretation.** This act shall be so interpreted and construed as to effectuate its general purpose, to make uniform the laws of those states which enact it.

Repealing clause.

Section 29. That Sections 3189, 3190, 3191, 3192, 3193, 3199, 3200, 3201, 3202, 3202.3, 3202.4, 3202.5, 3202.6, of the Revised Codes of Montana of 1935, be repealed together with all acts and parts of acts in conflict herewith.

Short title.

Section 30. **Name of Act.** This act may be cited as the "Uniform Drug Act".

Effective date.

Section 31. **Time of Taking Effect.** This act shall be in full force and effect from and after its passage and approval.

Approved March 18, 1937.

CHAPTER 177

An Act to Amend Section 3277 of the Revised Codes of Montana of 1935, Relating to the Sale of and Payment for Carcasses of Animals Destroyed, and to Authorize the Livestock Sanitary Board to Cooperate With the United States Bureau of Animal Industry or Other Federal Agency in Eradicating or Controlling Contagious, Communicable or Dangerous Diseases of Livestock by Adopting Rules and Regulations.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 3277 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Sale of condemned carcass.

"Section 3277. **Sale of Condemned Carcasses—Disposal of Proceeds.** Where a carcass or carcasses of ani-

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mals ordered destroyed by this act are found, upon official post-mortem inspection, to be fit for human consumption, the owner shall receive the net proceeds from the sale of such carcass or carcasses, which proceeds shall be deducted from his claim against the state and county on account of such slaughter. The representative of the livestock sanitary board, may, when considered advisable or necessary or when it is desired by the owner, proceed to sell the carcass or carcasses upon such terms as shall to him seem to the best interests of the State, and the net proceeds obtained therefrom shall be paid to the owner, but such procedure shall not invalidate the owner's claim for indemnity for any balance due him as provided by law."

Proceeds deducted from owner's claim.

Section 2. Rules and Regulations—Agreement With Federal Government. Whenever it is determined by the livestock sanitary board that it is necessary to eradicate or control any infectious, contagious, communicable or dangerous disease of livestock in the State, in cooperation with the United States bureau of animal industry or other federal agency and to appraise and destroy animals affected with, or which have been exposed to such disease, or to destroy property in order to remove the infection and complete the cleaning and disinfection of the premises, or to do any act or incur any other expense reasonably necessary in suppressing such disease, the board may accept and adopt on behalf of the State, the rules and regulations adopted by the United States bureau of animal industry or other federal agency under authority of an act of congress, or such portion thereof deemed necessary, suitable or applicable, and adopt such other rules and regulations as it deems necessary or desirable for this purpose, and to cooperate with the United States bureau of animal industry or other federal agency in the enforcement of such rules and regulations so accepted and adopted.

Board may adopt rules and cooperate with United States agencies.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved March 18, 1937.

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CHAPTER 178

An Act Amending Section 10376 of the Revised Codes of Montana of 1935, Relating to the Powers of Clerks of the District Courts to Issue Notices, Orders, and Hold Hearings in Probate and Guardianship Matters, and Providing for the Modification or Setting Aside of Any Notices or Orders so Made.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 10376 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Power of clerk in probate matters.

"Section 10376. The clerk may make all necessary orders and issue notices of hearing for the probate of wills, both domestic and foreign, and letters of administration or guardianship, may order notices to creditors, appoint appraisers, file and approve all bonds, file and approve all claims against the estate, file and approve all accounts of executors, administrators, and guardians, except final accounts, when no objections are made or filed thereto; and in the absence of the judge may hear and upon the hearing grant such letters, including letters testamentary, when no objections are made or filed, and make orders fixing time and place of hearing accounts and petitions for distribution, and may also make orders to show cause on applications for sale of real estate and orders to show cause or for notice of hearing in any probate or guardianship matter for the hearing of which an order to show cause or notice of hearing it necessary. In the absence of the judge and when no objections are made or filed, the clerk may hear, and upon the hearing grant letters of administration or guardianship and letters testamentary, approve all bonds, claims against estates and all accounts of executors, administrators and guardians, except final accounts. The court or judge may at any time within thirty days thereafter set aside or modify any of the orders herein provided for, but unless so set aside or modified, they shall have the same effect as if made by the judge or court."

Court may set aside orders of clerk.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

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Section 3. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved March 18, 1937.

CHAPTER 179

An Act Authorizing a Court or Judge to Reduce the Penalty of a Bond Previously Given by an Executor or Administrator and Providing for the Filing of a New Bond.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Any person interested in any estate may by verified petition represent to the court or judge that any bond theretofore given in such estate is for a greater amount than the assets of the estate at the time of such petition justify. Verified petition as to existing bond.

Section 2. If the court or judge is satisfied from such verified petition or upon evidence introduced at a hearing thereon if such hearing be ordered by the court or judge, then such court or judge may make an order reducing the penalty of such existing bond, as to future acts of such executor or administrator, to an amount not less than the then value of the personal property and annual rents and profits of real estate belonging to the estate. Reduction of penalty of bond.

Section 3. If any order be made reducing the penalty of a bond the former surety shall remain liable for future acts, in the reduced amount, unless such executor or administrator give a new bond in the reduced amount. But on the approval by a court or judge of a new bond in the reduced amount the surety on the former bond shall not be liable for any subsequent act, default, or misconduct of the executor or administrator. Liability of former surety.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 5. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved March 18, 1937.

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CHAPTER 180

An Act to Amend Section 5039.74 of the Revised Codes of Montana of 1935, Relating to the Power of Cities and Towns to Condemn Property.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 5039.74 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Power of condemnation.

"Section 5039.74. **Power of Condemnation.** The city or town council has power: To condemn private property for opening, establishing, widening, or altering any streets, alley, park, sewer or waterway in the city or town, and for establishing, constructing and maintaining any sewer, waterway or drain ditch outside of the corporate limits of the municipality, or for any other municipal and public use, and the ordinance authorizing the taking of private property for any such use is conclusive as to the necessity of the taking, and must conform to and the proceedings thereunder had as provided in the code of civil procedure concerning eminent domain."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 18, 1937.

CHAPTER 181

An Act to Amend Section 654 of the Revised Codes of Montana of 1935, Relating to the Canvass of Returns at Primary Elections.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 654 of the Revised Codes of the State of Montana of 1935, be, and the same is hereby amended to read as follows:

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"Section 654. **Canvass of Returns.** On the third day after the close of any primary nominating election, or sooner if all the returns be received, the county clerk, taking to his assistance two justices of the peace of the county of different political parties, if practicable, or two members of the board of county commissioners of the county of different political parties, if possible, or one justice of the peace and one member of the board of county commissioners of the county of different political parties, if practicable, shall proceed to open said returns and make abstracts of the votes. Such abstracts of votes for nominations for governor and for senator in congress shall be on one separate sheet for each political party, and shall be immediately transmitted to the secretary of state in like manner as other election returns are transmitted to him. Such abstract of votes for nomination of each party for lieutenant governor, secretary of state, attorney general, state auditor, superintendent of public instruction, railroad commissioners, clerk of the supreme court, state treasurer, justices of the supreme court, members of congress, judges of the district court, and members of the legislative assembly, who are to be nominated from a district composed of more than one county, shall be on one sheet, separately for each political party, and shall be forthwith transmitted to the secretary of state, as required by the following section. The abstract of votes for county and precinct offices shall be on another sheet separately for each political party; and it shall be the duty of said clerk immediately to certify the nomination for each party and enter upon his register of nominations the name of each of the persons having the highest number of votes for nomination as candidates for members of the legislative assembly, county, and precinct offices, respectively, and to notify by mail each person who is so nominated; provided, that when a tie shall exist between two or more persons for the same nomination by reason of said two or more persons having an equal and the highest number of votes for nomination by one party to one and the same office, the county clerk shall give notice to the several persons so having the highest and equal number of votes to attend at his office at a time to be appointed by said clerk, who shall then and there proceed publicly to decide by lot which of the persons so having an equal number of votes shall be declared nominated by his party; and said clerk shall

Canvass of returns.

Abstracts of votes for governor and senator.

Abstract of votes for lieutenant governor, etc.

County and precinct officers.

Tie to be decided by lot.

Duties of county clerk.

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forthwith enter upon his register of nominations the name of the persons thus duly nominated, in like manner as though he had received the highest number of the votes of his party for that nomination; and it shall be the duty of the county clerk of every county, on receipt of the returns of any general primary nominating election, to make out his certificate stating therein the compensation to which the judges and clerks of election may be entitled for their services, and lay the same before the county board of county commissioners at its next term, and the said board shall order the compensation aforesaid to be paid out of the county treasury. In all primary nominating elections in this State, under the provisions of this law, the person having the highest number of votes for nomination to any office shall be deemed to have been nominated by his political party for that office."

Nomination by highest number of votes.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 18, 1937.

CHAPTER 182

An Act Relating to the Montana Highway Patrol and Amending Sections 1741.4 to 1741.11, Inclusive, of the Revised Codes of Montana of 1935, Relating to the Appointment of a Supervisor, His Qualifications, Term of Office, Salary and Duties; the Qualifications, Appointment, Term, Salary and Duties of Patrolmen and Assistant Supervisors; Equipment to Be Furnished for Patrolmen; Defining and Enumerating Acts Constituting Crimes Pertaining to the Use of Highways and the Operation of Motor Vehicles; Prescribing Penalties for Violations; Defining Powers and Authority of Members of the Montana Highway Patrol and Method of Making Arrests; Fees of Justices of the Peace for the Purpose of This Act; Fees for State Drivers' Licenses; Adding a New Section Defining Causes for Dismissal, Suspension, or Demotion of Members of the Highway Patrol and Prescribing the Manner for Hearing

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Charges Against Such Members; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 1741.4 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Term and salary of highway patrol supervisor.

"Section 1741.4. The highway patrol supervisor shall hold his office until his appointment has terminated for cause, as hereinafter set forth, and shall receive a salary of not less than three thousand dollars ($3000.00) nor more than thirty-four hundred dollars ($3400.00) per annum, and necessary traveling expenses. The supervisor shall have direct control and supervision of all patrolmen, subject to the approval of the Montana highway patrol board. The person named as supervisor shall have been a continuous resident of Montana for at least five (5) years."

Duty.

Residence required.

Amending clause.

Section 2. That Section 1741.5 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Assistant supervisors and patrolmen.

"Section 1741.5. The board shall designate and name assistant supervisors, not to exceed four (4) in number, and patrolmen in such numbers as may be justified from the fund hereinafter to be provided. Said patrolmen shall be chosen in equal numbers in the twelve (12) highway districts. Replacements and additions to the force shall be selected in the same manner, but in no event shall the salaries and expenses of patrolmen ever exceed the amount hereinafter provided in the state highway patrol revolving fund. Assistant supervisors shall be selected from the patrolmen by the supervisor subject to the approval of the highway patrol board. The assistant supervisors' duties and jurisdiction shall be outlined, defined and under the control of the supervisor, subject to the approval of the Montana highway patrol board. Patrolmen shall possess the following qualifications:

Qualifications of patrolmen.

1. Sound and active physical condition.

2. Good moral character.

3. Between the ages of twenty-four (24) and fifty-five (55) at the time of entering the service.

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4. Resident of Montana for at least five (5) years past.

5. Pass a satisfactory test in the operation of both automobiles and motorcycles.

6. Not over fifty-five (55) per cent of the patrol shall belong to one political party.

Salary.

The initial salary of patrolmen shall be one hundred twenty-five dollars ($125.00) per month, but the same may be increased at the discretion of the board not to exceed one hundred sixty dollars ($160.00), together with actual traveling expenses, for merited service in the patrol. The initial salary of the assistant supervisors shall be one thousand nine hundred and twenty dollars ($1920.00) per annum, but the same may be increased, at the discretion of the board not to exceed twenty-eight hundred dollars ($2800.00) per annum for merited service in the patrol and actual traveling expenses. All patrolmen shall be placed under probationary training and service for a period of six (6) months to one (1) year, during which time the highway patrol supervisor must recommend to the highway patrol board for permanent appointments or the patrolmen will automatically be dismissed; otherwise, they shall hold their permanent appointments while there are sufficient funds in the department."

Probationary training.

Tenure of office.

Section 3. Every person employed or appointed and designated as a supervisor, assistant supervisor or patrolman under and pursuant to the provisions of this law, and acts amending it, shall continue in service and hold his position without demotion until suspended, demoted, or discharged in the manner hereinafter provided, for one or more of the causes specified in the following paragraph. Causes for suspension, demotion, or discharge shall be:

Causes for suspension, etc.

Conviction of crime.

1. Conviction of any crime involving moral turpitude in any court of competent jurisdiction subsequent to the commencement of such employment.

2. Gross neglect of duty or wilful violation or disobedience of orders or regulations.

3. Gross inefficiency in performing duties.

4. Conduct unbecoming an officer.

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5. Incapacity, or partial incapacity, materially affecting his ability to perform his official duties.

Political activity.

6. Active participation in any political campaign by supporting or opposing, directly or indirectly, any political candidate, or contributing financially or otherwise, directly or indirectly, to the success or defeat of any political party or candidate.

Charges.

The charge or charges against any such employees shall be made in writing and shall be signed and sworn to by the person making the same, which written charge or charges shall be filed with the supervisor of the Montana highway patrol. Any charges involving suspension or dismissal of the supervisor or an assistant supervisor shall be filed directly with the highway patrol board.

Hearing.

Upon the filing of the same, if the supervisor, in his opinion, believes that such charges constitute grounds for suspension, demotion, or discharge, he shall order a hearing to be had thereon before the highway patrol board and fix a time for such hearing, otherwise he shall dismiss such charges.

Notice.

At least ten (10) days before the time appointed for said hearing, written notice specifying the charge or charges filed and stating the name of the person or persons making the charge or charges shall be served on the said employee personally, if his whereabouts is known, in the State of Montana. If at the time, the whereabouts of the said employee is unknown, or if he be outside of the State of Montana, service may be made upon him by mailing the said written notice to him at his last known place of residence in Montana.

Suspension pending decision.

If the said supervisor orders a hearing he may suspend such employee pending the rendition of the decision made in such case.

Authority of highway patrol board.

The highway patrol board shall be the authority to hear such charge or charges and render a decision and appropriate order.

Compulsory attendance of witnesses.

The highway patrol board shall have the power to compel the attendance of witnesses at any such hearing and to examine them under oath and to require the production of books, papers, and other evidence at such hearing and for that purpose issue subpoenas and cause

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the same to be served and executed in any part of the State.

Rights of accused at hearing.

The employees accused shall be entitled to be confronted with the witnesses against him and have an opportunity to cross examine the same and to introduce at such hearing testimony in his own behalf, and shall be entitled to be represented by counsel at such hearing. The highway patrol board shall within fifteen (15) days after such hearing render its decision in writing and file same in its office with the supervisor and with the employee accused also.

Decision in writing.

Punishment of offender.

If, after such hearing, the highway patrol board finds that any such charge or charges made against the employee is true, it may punish the offending party by reprimand, suspension without pay, demotion, or dismissal.

Appeal to district court.

Any employee who is so suspended, demoted or dismissed may have a right of appeal to the district court of Lewis and Clark County, within ten (10) days after such decision or determination of the highway patrol board, and said court shall review such decision or determination in a summary manner and shall render its decision upon such appeal within ninety (90) days from the filing of such appeal in said court. If such decision or determination of the highway patrol board shall be finally reversed or modified by said court, the said employee shall be reinstated in his position and the highway patrol board shall compensate the said employee so suspended out of the highway patrol revolving fund any salary or wages withheld from him pending the determination of the charge or charges or as may be directed by the court.

Reinstatement, payment of salary.

Reinstatement after board hearing.

If, after a patrol board hearing, the employee is found not guilty of the charge or charges filed against him, he shall be immediately reinstated in his position and shall be reimbursed for such salary or wages withheld from him during the period of determination of the decision upon such charges.

Board may order charges filed.

The highway patrol board shall have the authority to order the supervisor to file charges with the board if the supervisor in his judgment does not believe the charge or charges warrant a hearing.

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Amending clause.

Section 4. That Section 1741.6 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Equipment of patrolmen.

"Section 1741.6. The highway patrol board shall equip patrolmen with either automobiles or motorcycles, and all said equipment shall be fitted with a distinctive siren and a particularly designated light at night. The patrol board shall furnish all permanent patrolmen with one cap, one blouse, and one pair of trousers per man per year or three-fourths of their respective values in cash, with the approval of the assistant supervisor of their respective districts."

Amending clause.

Section 5. That Section 1741.7 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Acts constituting crimes.

"Section 1741.7. For the purpose of this act, the following acts committed relative to the use of the highways and the operation of motor vehicles in the State of Montana outside of incorporated towns and cities shall constitute a crime punishable by law as hereinafter provided:

Driving without license.

(1). Driving a motor vehicle without all proper licenses or permits as now required or hereafter provided.

(2). Passing a motor or other vehicle without giving proper warning.

Passing other vehicles on curves.

(3). Passing a motor or other vehicle on blind curves, hills, or any other place where view is obstructed or obscured.

Lights and reflectors.

(4). In driving a vehicle, other than automotive, at night without suitable lights or approved reflectors for the protection of oncoming traffic.

(5). Driving a motor or other vehicle while under the influence of a drug or intoxicating liquor.

Reckless driving.

(6). Driving an automotive vehicle in a reckless manner, or in excess of speeds designated by the highway patrol supervisor at dangerous points. Driving an automotive vehicle in a reckless manner is the violation of two (2) or more of the highway patrol board regulations or of the Montana motor vehicle code or any one or more violations of this act that has caused an accident.

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Vehicle in unsafe condition.

(7). Operating a motor vehicle in an unsafe mechanical condition. This pertains specifically to brakes, light, visibility of glass enclosures and windshields, steering devices and mechanical features enabling the operator to handle his car in a safe manner under all normal conditions.

Excessive speed on curves.

(8). Driving an automotive vehicle in excess of forty (40) miles per hour on all sharp curves marked with standard highway markers.

"School zone" signs.

(9). Failing to observe "school zone" signs and other signs or signals legally placed along or on the highways.

Trailer not properly equipped.

(10). Towing a trailer which is not equipped with safety chains or hitch approved by the supervisor or an assistant supervisor, tail light or approved reflector, and which is not constructed so as to operate without wobbling.

Propelling bicycles without proper light.

(11). Propelling a bicycle on the public highway one (1) hour after sundown or one (1) hour before sunup which is not equipped with a white light visible under normal conditions at least two hundred (200) feet to the front and a rear light or reflex mirror exhibiting a red light to the rear.

As to headlight globes.

(12). Operating motor vehicle with headlight globes with greater than thirty-two (32) candle power intensity.

Windshield wiper.

(13). Operating a motor vehicle without windshield wiper or rear-view mirror.

"Wrecker cars," signs, etc.

(14). Permitting "wrecker cars" or other towing agencies' equipment to block the highways without first placing proper signs or flares at night and red flags during the day a sufficient distance, depending upon conditions, front and rear to protect oncoming traffic.

Flares, etc. for parked trucks or trailers.

(15). Allowing parked, disabled, or stalled truck or trailer on the highway without having flares or lanterns during the nighttime, and red flags in the daytime, placed at a sufficient distance, depending on conditions, front and rear, to allow oncoming traffic an opportunity to stop; and not removing such truck or trailer from the highway as quickly as possible.

Entering highway from side road.

(16). Vehicles entering the main highways from a side road or drive must completely stop before entering

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said highway and right of way must be given to a vehicle traveling on the main highways.

(17). Stopping or parking on the main traveled portion of the highways. Stopping on highway.

(18). Walking on other than the left hand side of the road.

(19). Failing to drive to the right of the center line at all times except when overtaking or passing a motor or other vehicle. Passing is only allowed where the driver overtaking another vehicle can see sufficient clear road to pass and return to his side of the road before endangering an approaching vehicle coming in the opposite direction. Driving with reference to center line. Passing.

(20). Failing to observe the word, signal, or whistle of a highway patrolman. Patrolmen shall have the authority to stop, examine, and test any vehicle that he sees fit. Signal of patrolman.

(21). Operating a motor vehicle with more than three (3) persons in the driver's seat.

(22). Operating a motor vehicle unless such vehicle is equipped with muffler in good working order and in constant operation to prevent excessive and unusual noise, and it shall be unlawful to use muffler 'cut-outs'." Muffler.

Section 6. That Section 1741.8 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows: Amending clause.

"Section 1741.8. The violation of any of the provisions of the above mentioned sections, or other provisions of the state motor vehicle laws, other than driving in a reckless manner or while intoxicated, shall be punishable as follows: Penalties. Offenses excepted.

For the first offense the offender, in the discretion of the patrolmen, may be issued a "warning" card or be punished, on conviction, by a fine of not less than two dollars ($2.00) or more than five dollars ($5.00). First offense.

For the second offense of the above mentioned provisions, the penalty shall not be less than five dollars ($5.00) or more than ten dollars ($10.00). Second offense.

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Third offense. For the third or subsequent offenses, the penalty shall be not less than twenty-five dollars ($25.00) or more than one hundred dollars ($100.00).

Imprisonment. On failure of payment of fines, the offender, in cases of misdemeanor, shall be imprisoned in the county jail in the county in which the offense has been committed, and said imprisonment shall be computed upon the basis of a two dollar ($2.00) fine for each day's incarceration.

Reckless driving, penalty. For the offense of driving in a reckless manner, the fine for the first offense shall not be less than ten dollars ($10.00) or more than three hundred dollars ($300.00) and/or imprisonment in the county jail for a term of not less than five (5) days or more than thirty (30) days.

Second offense. For the second offense, the fine shall be not less than three hundred dollars ($300.00) or more than five hundred dollars ($500.00) and/or imprisonment in the county jail for a term of not less than thirty (30) days or more than six (6) months.

Third offense. For the third offense, the fine shall not be less than five hundred dollars ($500.00) or more than one thousand dollars ($1000.00) and/or imprisonment in the state prison for a term of not less than six (6) months or more than three (3) years.

Driving while intoxicated, penalty. For the offense of driving while intoxicated, the penalty for the first offense shall be a fine of not less than twenty-five dollars ($25.00) or more than three hundred dollars ($300.00) and/or imprisonment in the county jail for a term of not less than ten (10) days or more than six (6) months.

Second offense. For the second offense, the fine shall not be less than three hundred dollars ($300.00) or more than one thousand dollars ($1000.00) and/or imprisonment in the state prison for a term of not less than six (6) months or more than three (3) years.

Third offense. For the third offense, the fine shall be not less than one thousand dollars ($1000.00) or more than five thousand dollars ($5000.00) and/or imprisonment in the state prison for a term of not less than three (3) years or more than ten (10) years.

In addition to the above mentioned penalties, upon conviction of a motor vehicle driver of any of the above

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mentioned offenses, it shall be at the discretion of the highway patrol board, justice of the peace or district court judge to order the offender to refrain from operating a motor vehicle for a stated period of time. The penalty upon conviction for driving a motor vehicle after such restraining order has been issued shall be from twenty-five dollars ($25.00) to one hundred dollars ($100.00) and/or imprisonment of ten (10) to sixty (60) days in jail.

Restraining order.

Penalty for violation of.

In the event of such order to refrain from driving, an appeal may be had to any court of competent jurisdiction for a review of the order. For the purpose of determining second or subsequent offense under the highway patrol law, the forfeiture of bail is equivalent to conviction.

Appeal for review of order.

Forfeiture of bail, effect.

Upon conviction, the court costs, or any part thereof, may also be assessed against the defendant in the discretion of the court.

Costs.

It is not the intent of this act to in any manner provide immunity from civil prosecution or action for damages."

Civil actions.

Section 7 That Section 1741.9 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Amending clause.

"Section 1741.9. In addition to the above mentioned duties, the highway patrol supervisor and all patrolmen are authorized under this act to make arrests for the following offenses committed in their presence, any violation of the traffic laws of the State of Montana or when requested by any peace officer:

Offenses for which arrest may be made by patrolmen.

The crimes of murder, assault with a deadly weapon, arson, burglary, grand larceny, kidnaping, illegal transportation of narcotics, or violation of the Dyer act regarding the transportation of stolen automobiles, but in no event shall such patrolmen be deemed police officers in making arrests in other offenses, and shall in felony offenses cooperate with sheriffs and other peace officers; provided that such highway patrolmen shall have no authority and are expressly forbidden to make arrests in labor disputes or in preventing violence in connection with strikes, and shall not be permitted to perform any duties whatsoever in connection with labor disputes, strikes or boycotts, and shall not be permitted to congre-

Murder, etc.

Patrolmen not police officers.

Arrests in labor disputes forbidden.

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gate or act as a unit in one county to suppress riots or to preserve the peace. However, the highway patrol supervisor, or assistant supervisors, or patrolmen are authorized under this act, when requested by the proper local authorities, to assume jurisdiction and control of traffic for sporting events or other civic activities, inside of incorporated cities and towns for such length of time as is deemed necessary by the aforesaid authorities.

Temporary control of traffic in cities and towns.

Investigation of accidents.

All members of the Montana highway patrol shall have power to investigate accidents resulting in personal injury or death to persons or damage to cars and to gather evidence for the purpose of prosecuting the person or persons guilty of any violation of the law contributing to the happening of such accident.

Examination as to ability of person to operate vehicle.

The highway patrol shall have the authority to examine any person, operating a motor vehicle, who is a repeated violator of traffic regulations, or who is mentally or physically deficient, to determine his ability to operate a motor vehicle, and if, after such examination, it reasonably appears to said examiner that said person is unsafe or unfit to operate a motor vehicle, the examiner may recommend to the highway patrol board, justice court or district court for issuance of an order prohibiting such person from operating any motor vehicle."

Amending clause.

Section 8. That Section 1741.10 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Duty of patrolmen upon making an arrest.

"Section 1741.10. Patrolmen, upon making an arrest, shall either deliver the offender to the nearest justice of the peace during office hours, or to the county jail, or in lieu thereof, deliver to the offender a form of summons describing the nature of the offense with instructions thereon for the offender to report to the nearest justice of the peace, or in lieu of reporting to the nearest justice of the peace, the patrolman has the right to set and accept a deposit for appearance justifiable for the offense charged.

Fees of justices of the peace.

For the purpose of this act only, the fees of justice of the peace in all offenses in which the fine is five dollars ($5.00) or less, shall be one dollar ($1.00), but if the fine is in excess of five dollars ($5.00), the justice of the peace shall be permitted the fee now prescribed

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by law; provided that no additional fees shall be paid justices of the peace where salaries are fixed by law."

Amending clause.

Section 9. That Section 1741.11 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Owner to procure driver's license.

"Section 1741.11. Within sixty (60) days from and after the passage and the approval of this act, every owner and driver of a motor vehicle, including motorcycles, shall procure a driver's license from the county treasurer of the county in which applicant resides. The fee, beginning January 1, 1938, for a driver's license for a taxi driver, truck driver, or any driver of a motor vehicle shall be seventy-five cents (75c), purchased annually on or before January first, and said license shall expire on December thirty-first of the same year.

Fee for driver's license.

Driving by person under 15 years of age prohibited.

It shall be unlawful and is hereby prohibited for any person under the age of fifteen (15) to purchase a driver's license or drive a motor vehicle in the State of Montana without first securing permission from the highway patrol supervisor or assistant supervisors."

Repealing clause.

Section 10. All acts and parts of acts in conflict herewith are hereby repealed.

Montana highway commission as "board."

Section 11. For the purposes of this act the use of the words Montana highway patrol board, highway patrol board, patrol board, or board, refers to, means, and is, the Montana highway commission.

Effective date.

Section 12. This act shall be in full force and effect sixty (60) days after its passage and approval.

Approved March 18, 1937.

CHAPTER 183

An Act Amending Sections 3228.19, 3228.20, 3228.21 and 3228.29 of the Revised Codes of Montana of 1935, Relating to Sanitation of Barber Shops, Barber Schools, and Barber Colleges; Defining the Term "Barber Shop"; Relating to the Definition of the Practice of Barbering; Relating to Qualifications for Certificate of Registration, as Registered Barbers, Apprentices,

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Barber Schools and Barber Colleges; Relating to Fees to Be Paid by Barbers, Students and Apprentices.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 3228.19 of the Revised Codes of Montana of 1935, shall be, and the same is hereby amended to read as follows:

"Section 3228.19. **Sanitation of Barber Shops, Barber Schools and Barber Colleges and Definition of Term 'Barber Shop'.**

Sanitation of barber shops.

Board of barber examiners and state board of health to make rules.

Physician's certificate.

Certificate of registration.

All barber shops, barber schools and barber colleges shall be operated and maintained in a sanitary condition so as to preserve the public health and prevent the spread of disease. The board of barber examiners and the state board of health of the State of Montana are hereby empowered to make and enforce all reasonable rules and regulations so as to preserve the public health and prevent the spread of disease. No barber, or barber apprentice, shall receive a certificate of registration, nor a renewal of same, until he has presented to the board of barber examiners a physician's certificate showing him to be free of physical ailments that would tend to endanger the health of the public, and any person practicing barbering without a certificate of registration is guilty of a violation of this act.

Barber having infectious disease.

(a) It shall be unlawful for any barber, barber apprentice or student of barbering to practice the occupation of a barber, or do any barber work while he has an infectious, contagious or communicable disease that would endanger the health of the public.

Board to revoke or suspend registration.

(b) If a barber, or barber apprentice, shall, after securing his certificate contract a communicable, infectious or contagious disease, endangering the public health, the board shall upon proof of same revoke or suspend his certificate of registration until such time as the board shall have satisfactory proof that such barber, or barber apprentice, is no longer afflicted with such communicable, infectious or contagious disease.

"Barber shop."

(c) The term 'barber shop' as used herein is defined as a place where any person or persons carry on, engage in, practice or causes to be carried on, engaged in or practiced the business of barbering as the same is defined

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in Chapter 127 of the Session Laws of the Twenty-first Legislative Assembly of 1929 of the State of Montana."

Amending clause.

Section 2. That Section 3228.20 of the Revised Codes of Montana of 1935, shall be, and the same is hereby amended to read as follows:

Practice of barbering defined.

"Section 3228.20. **Practice of Barbering Defined.** Any one or any combination of the following practices, when done upon the human body for tonsorial purposes, and not for the treatment of disease or physical or mental ailments and when done for payment, either directly or indirectly, constitutes the practice of barbering:

Shaving or trimming the beard.

Cutting the hair.

Giving facial or scalp massage, or treatment with oils, creams, lotions or other preparations, either by hand or mechanical appliances.

Singeing or shampooing the hair or applying hair tonic; or dyeing the hair of male persons;

Applying cosmetic preparations, antiseptics, powders, oils, lotions to scalp, face or neck."

Amending clause.

Section 3. That Section 3228.21 of the Revised Codes of Montana of 1935, shall be, and the same is hereby amended to read as follows:

Qualifications for registration.

"Section 3228.21. **Qualifications for Certificate of Registration as Registered Barbers, Apprentices, Barber Schools and Barber Colleges.** A person is qualified to receive a certificate of registration to practice barbering:

Apprentice period.

(a) Who has practiced as a registered apprentice for a period of eighteen (18) months under the immediate personal supervision of a registered barber; and who has passed a satisfactory examination conducted by the board of barber examiners to determine his or her fitness to practice barbering as defined by Section 3228.20 as amended.

Examination as to fitness.

Graduate of school of barbering.

(b) Who is a graduate of a standardized school of barbering, having a curriculum as adopted by the National Educational Council of Barber Examiners, and who has attended such school for the time prescribed herein and which school of barbering has been approved

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Examination by board.

by the board of barber examiners of the State of Montana, and who has passed a satisfactory and practical examination conducted by the said board of barber examiners to determine his or her fitness to practice barbering.

Apprentice.

(c) Who has served as an apprentice. An apprentice for the purpose of this act, is a person who receives instruction in an approved barber school, or college, or from a barber authorized to practice barbering within the State of Montana.

Apprentice to file statement.

Every apprentice must file with the board of barber examiners a statement in writing, showing the name and place of business of his or her instructor, or school, the date of commencement of apprenticeship, and the full name and age of said apprentice, and shall pay to the

Fee of board.

board of barber examiners a fee of three ($3.00) dollars, whereupon the board of barber examiners shall issue

Card.

to said apprentice a card.

Qualifications of school of barbering.

(d) No school, or college, of barbering shall be approved by the board of barber examiners unless it teaches the curriculum of the standardized schools adopted by the National Educational Council of Barber Examiners. Students of said schools or colleges, may, after attending such schools for a period of six (6) months make application to the board of barber examiners for an apprenticeship certificate to practice barbering under the immediate person supervision of a licensed barber for a period of one (1) year, after which time said students may then make application to take the examination for a barber's certificate of registration.

Regulations as to barber school operating in state.

(e) Every barber school, or college, operating within the State of Montana must be in charge of a person who has had ten (10) years continuous experience as a barber, providing that the owner of such school, or college, shall

Permit to operate.

first secure from the board of barber examiners a permit to operate on payment of an annual license fee of five

License fee.

hundred ($500.00) dollars, and shall keep said permit prominently displayed, and shall before commencing business file with the secretary of state a bond to the

Bond.

State of Montana, which bond shall be approved by the attorney general, in the sum of two thousand ($2000.00) dollars conditioned upon the faithful compliance of said barber school, or college, with all the provisions of

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Chapter 127 of the Session Laws of 1929, as amended; and to pay all judgments that may be obtained against said schools, or colleges, or the owners thereof on account of fraud, misrepresentation or deceit practiced by them, or their agents; provided, further, that all barber schools, or colleges, shall keep prominently displayed a substantial sign as a barber school, or barber college. Provided, further, that all barber schools, or colleges, upon receiving students shall immediately apply to the board of barber examiners for student permits upon blank forms provided by the board of barber examiners for such purposes.

Display of sign.

Student permits.

(f) No registered apprentice may independently practice, or engage in the practice of barbering; provided, however, he may do any and all of the acts which constitute the practice of barbering when so done under the immediate personal supervision of a registered barber."

Apprentice forbidden to practice independently.

Section 4. That Section 3228.29 of the Revised Codes of Montana of 1935, shall be, and the same is hereby amended to read as follows:

Amending clause.

"Section 3228.29. **Fees to Be Paid by Apprentice, Students and Barbers.**

(a) The fee to be paid by an applicant for an examination to determine his or her fitness to receive a certificate of registration to practice barbering as defined in Section two (2) of this act, shall be fifteen ($15.00) dollars, and for the issuance of said certificate an additional three ($3.00) dollars. The fee to be paid by an apprentice or student for a certificate of registration shall be the sum of three ($3.00) dollars.

Examination fee, for barber.

For apprentice.

(b) Each person registered as a barber or barber apprentice shall on or before the first day of July of each year renew his certificate of registration and the fee therefor shall be three ($3.00) dollars.

Renewal of registration.

Fee.

(c) A permit may be issued by the board of barber examiners to any eligible applicant for examination, other than an apprentice, upon the payment of the examination fee of fifteen ($15.00) dollars, and said permit shall allow the holder thereof to practice under a registered barber until the next examination for barbers, at which time the holder of said permit shall present him-

Temporary permit to practice under registered barber.

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self, or herself, for examination; provided, however, that in event the holder of said permit is unable to present himself for examination because of illness duly attested to by a legally qualified physician, or for any other equally good reason, said permit shall be cancelled and the fee retained in the fund.

Cancellation.

Second examination.

(d) Any person who fails in the examination for a barber's certificate of registration may apply for a second examination, and upon such application for a second examination the applicant shall pay a fee of fifteen ($15.00) dollars, and the board of barber examiners may grant a second permit and in event of failure to successfully pass a second examination, or to present oneself for examination except when unable to do so as provided in subdivision (c) hereof, such permit shall be cancelled and the fee for such second examination shall be retained in the fund; and after two successive failures to pass the examination for a barber's certificate of registration, no further examination shall be allowed such applicant by the board of barber examiners until the expiration of one year from and after the date of such failure to pass such examination, and such further examination shall not be allowed by the board of barber examiners unless the applicant therefore makes application therefor and pays the fee of fifteen ($15.00) dollars.

Fee.

Second permit.

Further examination, when.

Fee.

Annual license fee.

(e) Each person registered as a barber, or barber apprentice, shall on or before the first day of July of each year pay a license fee of three ($3.00) dollars for the renewal of his or her certificate of registration, and if any barber, or barber apprentice, shall fail to have such certificate renewed on or before the first day of August of each year such barber, or barber apprentice, shall upon the renewal of said certificate of registration pay a penalty, or a restoration fee, of five ($5.00) dollars in addition to the regular fee of three ($3.00) dollars provided for herein, and if a certificate of registration is not renewed within one year after date of expiration thereof such barber, or barber apprentice, shall not be entitled to have such certificate of registration renewed, or a new certificate of registration issued, without first applying for and taking the examination and paying the fees provided for by this section. Provided further, however, that physically handicapped men and women, trained for the barber profession by the state bureau of civilian rehabilitation and certified by that department

Penalty for delay.

Effect of failure to renew for one year.

Proviso, as to barbers trained and certified by state bureau of civilian rehabilitation.

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as having successfully completed a six (6) months course in a reputable barber college will not be required to pay any fees, but will for a period of one (1) year immediately following their training be exempted from all except the sanitary provisions of the barber act or any of its amendments and provided, further, that no other or additional license, or fee, shall be imposed upon barbers, or barber apprentices, by any municipality or other subdivision of the State of Montana."

Repealing clause.

Section 5. All acts or parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 6. This act shall be in full force and effect from and after its passage and approval.

Approved March 18, 1937.

CHAPTER 184

An Act to Amend Section 12078 of the Revised Codes of the State of Montana of 1935, Relating to the Right of Courts to Suspend Sentence and to Revoke Such Suspended Sentence.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 12078 of the Revised Codes of the State of Montana of 1935, be, and the same is hereby amended to read as follows:

Court may suspend sentence, when.

"Section 12078. **Court May Suspend Sentence, When.** In all prosecutions for crimes or misdemeanors, except as hereinafter provided, where the defendant has pleaded or been found guilty, or where the court or magistrate has power to sentence such defendant to any penal or other institution in this State, and it appears that the defendant has never before been imprisoned for crime either in this State or elsewhere (but detention in an institution for juvenile delinquents shall not be considered imprisonment), and where it appears to the satisfaction of the court that the character of the defendant and circumstances of the case are such that he is not likely again to engage in an offensive course of conduct, and where it may appear that the public safety does not demand or require that the defendant shall suffer

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the penalty imposed by law, said court may suspend the execution of the sentence and place the defendant on probation in the manner hereinafter provided. Nothing in this act contained shall in any manner affect the laws providing the method of dealing with the juvenile delinquents. Any judge, who has suspended a sentence of imprisonment under this section, or his successor, is authorized thereafter, in his discretion, during the period of such suspended sentence to revoke such suspension and order such person committed, or may, in his discretion, order the prisoner placed under the jurisdiction of the state board of prison commissioners as provided by law, or retain such jurisdiction with his court as is authorized by him or his successor. Prior to such revocation of the order of such suspension the person affected shall be given a hearing before said judge."

Juvenile delinquents excepted.

Revocation of suspended sentence.

Hearing.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 18, 1937.

CHAPTER 185

An Act Granting Continual Existence to Corporations and Water Users' Associations Organized for the Purpose of Acquiring and Owning Water Rights and Constructing, Maintaining and Operating Canals, Ditches, Flumes and Other Works for Conveying Water, and Reservoirs for Storing the Same.

Be it enacted by the Legislative Assembly of the State of Montana:

Corporations and water users' associations, organized for certain purposes, to have continual existence.

Section 1. Corporations and water users' associations heretofore or hereafter organized under the laws of the State of Montana for the purpose of acquiring and owning water rights and constructing, maintaining and operating canals, ditches, flumes and other works for conveying water, and reservoirs for storing the same, or for any of the purposes mentioned in this section, shall have continual existence.

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Amendment of articles of incorporation.

Section 2. Corporations and water users' associations heretofore organized under the laws of the State of Montana for all or any of the purposes mentioned in Section 1 of this act are hereby authorized to amend their articles of incorporation in the manner provided in Sections 5917.1 to 5917.4, inclusive, of the Revised Codes of Montana of 1935, at any time after the taking effect of this act, so as to hereafter have and enjoy the privilege of continual existence.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 4. This act shall take effect and be in full force from and after its passage and approval.

Approved March 18, 1937.

CHAPTER 186

An Act to Amend Section 1008 of the Revised Codes of Montana, 1935, Relating to the Power of School Trustees Over All School Property.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 1008 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Power over property.

"Section 1008. **Power Over Property.** The board of trustees of each school district shall have custody of all school property belonging to the district, and shall have power in the name of the district, or in their own names as trustees of the district, to convey by deed all the interest of their district in or to any school house or lot directed to be sold as hereinafter provided, and all conveyances of real estate made to the district or to the trustees thereof shall be made to the board of trustees of the district and to their successors in office; said board, in the name of the district, shall have power to transact all business necessary for maintaining schools and protecting the rights of the district; the trustees of the district shall have the power to lease any property belonging to the district which is not being used for school purposes."

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Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 18, 1937.

CHAPTER 187

An Act to Make Uniform the Law on Close Pursuit and Authorizing This State to Cooperate With Other States Therein.

Be it enacted by the Legislative Assembly of the State of Montana:

Power of arrest by officer of another state.

Section 1. Any peace officer of another state of the United States, who enters this State in close pursuit and continues within this State in such close pursuit of a person in order to arrest him, shall have the same authority to arrest and hold in custody such person, as peace officers of this State have to arrest and hold in custody a person on the ground that he has committed a crime in this State.

Hearing as to legality of such arrest.

Section 2. If an arrest is made in this State by an officer of another state in accordance with the provisions of Section 1 of this act, he shall, without unnecessary delay, take the person arrested before a judge of a court of record who shall conduct a hearing for the sole purpose of determining if the arrest was in accordance with the provisions of Section 1, and not of determining the guilt or innocence of the arrested person. If the judge determines that the arrest was in accordance with such provisions, he shall commit the person arrested to the custody of the officer making the arrest, who shall without unnecessary delay take him to the state from which he fled. If the judge determines that the arrest was unlawful, he shall discharge the person arrested.

Duty of the judge.

Construction.

Section 3. Section 1 of this act shall not be construed so as to make unlawful any arrest in this State which would otherwise be unlawful.

"State."

Section 4. For the purpose of this act the word state shall include the District of Columbia.

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Secretary of state to certify copies hereof.

Section 5. Upon the passage and approval by the governor of this act, it shall be the duty of the secretary of the state (or other officer) to certify a copy of this act to the executive department of each of the states of the United States.

Validity of act.

Section 6. If any part of this act is for any reason declared void, it is declared to be the intent of this act that such invalidity shall not affect the validity of the remaining portions of this act.

Short title.

Section 7. This act may be cited as the Uniform Act on Close Pursuit.

Effective date.

Section 8. This act shall be in full force and effect from and after its passage and approval.

Approved March 18, 1937.

CHAPTER 188

An Act to Secure the Attendance of Witnesses From Without the State in Criminal Proceedings.

Be it enacted by the Legislative Assembly of the State of Montana:

"Witness."

"State."

Section 1. Witness—as used in this act shall include a person whose testimony is desired in any proceeding or investigation by a grand jury or in a criminal action, prosecution or proceeding. The word state shall include any territory of the United States and District of Columbia.

Summoning witnesses to testify in another state.

Section 2. **Summoning Witness in This State to Testify in Another State.** If a judge of a court of record in any state, which, by its laws has made provision for commanding persons within that state to attend and testify in this State, certifies under the seal of such court that there is a criminal prosecution pending in such court, or that a grand jury investigation has commenced or is about to commence, that a person being within this State is a material witness in such prosecution, or grand jury investigation, and that his presence will be required for a specified number of days, upon presentation of such certificate to any judge of a court of record in the county in which such person is, such judge shall fix a time and

Judge to order hearing.

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place for a hearing, and shall make an order directing the witness to appear at a time and place certain for the hearing.

Matters to be determined by judge.

If at a hearing the judge determines that the witness is material and necessary, that it will not cause undue hardship to the witness to be compelled to attend and testify in the prosecution, or a grand jury investigation, in the other state, and that the laws of the state in which the prosecution is pending, or grand jury investigation has commenced or is about to commence, will give to him protection from arrest and the service of civil and criminal process, he shall issue a summons, with a copy of the certificate attached, directing the witness to attend and testify in the court where the prosecution is pending, or where a grand jury investigation has commenced or is about to commence at a time and place specified in the summons. In any such hearing the certificate shall be prima facie evidence of all the facts stated therein.

Summons to be issued.

Certificate as prima facie evidence.

When witness may be taken into custody.

If said certificate recommends that the witness be taken into immediate custody and delivered to an officer of the requesting state to assure his attendance in the requesting state, such judge may, in lieu of notification of the hearing, direct that such witness be forthwith brought before him for said hearing; and the judge at the hearing being satisfied of the desirability of such custody and delivery, for which determination the certificate shall be prima facie proof of such desirability may, in lieu of issuing subpoena or summons, order that said witness be forthwith taken into custody and delivered to an officer of the requesting state.

Tender of mileage and fee.

If the witness, who is summoned as above provided, after being paid or tendered by some properly authorized person the sum of ten (10c) cents a mile for each mile and five dollars ($5.00) for each day, that he is required to travel and attend as a witness, fails without good cause to attend and testify as directed in the summons, he shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a court of record in this State.

Punishment of disobedient witness.

Summoning witness from another state.

Section 3. **Witness From Another State Summoned to Testify in This State.** If a person in any state, which by its laws has made provision for commanding persons within its borders to attend and testify in criminal pros-

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ecutions, or grand jury investigations commenced or about to commence, in this State, is a material witness in a prosecution pending in a court of record in this State, or in a grand jury investigation which has commenced or is about to commence, a judge of such court may issue a certificate under the seal of the court stating these facts and specifying the number of days the witness will be required. This certificate shall be presented to a judge of a court of record in the county in which the witness is found.

Judge to issue certificate.

If said certificate recommends that the witness be taken into immediate custody and delivered to an officer of this State to assure his attendance in this State, such judge may direct that such witness be forthwith brought before him; and the judge being satisfied of the desirability of such custody and delivery, for which determination said certificate shall be prima facie proof, may order that said witness be forthwith taken into custody and delivered to an officer of this State, which order shall be sufficient authority to such officer to take such witness into custody and hold him unless and until he may be released by bail, recognizance, or order of the judge issuing the certificate.

When witness may be taken into custody.

If the witness is summoned to attend and testify in this State, he shall be tendered the sum of ten (10c) a mile for each mile and five dollars ($5.00) for each day that he is required to travel and attend as a witness. A witness who has appeared in accordance with the provisions of the summons shall not be required to remain within this State a longer period of time than the period mentioned in the certificate, unless otherwise ordered by the court. If such witness fails without good cause to attend and testify as directed in the summons, he shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a court of record in this State.

Tender of mileage and witness fee.

Punishment of such witness for disobedience.

Section 4. **Exemption From Arrest and Service of Process.** If a person comes into this State in obedience to a summons directing him to attend and testify in this State, he shall not, while in this State pursuant to such summons or order, be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his entrance into this State under the summons.

Exemption from arrest and service of process.

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If a person passes through this State while going to another state in obedience to a summons or order to attend and testify in that state or while returning therefrom he shall not, while so passing through this State, be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his entrance into this State under the summons or order.

Interpretation.

Section 5. **Uniformity of Interpretation.** This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of the states which enact it.

Short title.

Section 6. **Short Title.** This act may be cited as "Uniform Act to Secure the Attendance of Witnesses From Without the State in Criminal Cases".

Repealing clause.

Section 7. **Inconsistent Laws Repealed.** All acts or parts of acts inconsistent with this act are hereby repealed.

Constitutionality.

Section 8. **Constitutionality.** If any part of this act is for any reason declared void, such invalidity shall not affect the validity of the remaining portions thereof.

Effective date.

Section 9. **Time of Taking Effect.** This act shall be in full force and effect from and after its passage and approval.

Approved March 18, 1937.

CHAPTER 189

An Act Providing That the State of Montana May Enter Into a Compact With Any of the United States for Mutual Helpfulness in Relation to Persons Convicted of Crime or Offenses Who May Be on Probation or Parole.

Be it enacted by the Legislative Assembly of the State of Montana:

Authorizing interstate compact.

Section 1. The governor of this State is hereby authorized and directed to enter into a compact on behalf of the State of Montana with any of the United States legally joining therein in the form substantially as follows:

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Form and provisions of.

A COMPACT. Entered into by and among the contracting states, signatories hereto, with the consent of the congress of the United States of America, granted by an act entitled "An act granting the consent of congress to any two or more states to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and for other purposes".

The contracting states solemnly agree:

"Sending state."

(1) That it shall be competent for the duly constituted judicial and administrative authorities of a state party to this compact, (herein called "sending state") to permit any person convicted of an offense within such state and placed on probation or released on parole to reside in any other state party to this compact, (herein called "receiving state") while on probation or parole, if

Residence of paroled person in receiving state.

"Receiving state."

Residence and employment.

(a) Such person is in fact a resident of or has his family residing within the receiving state and can obtain employment there,

(b) Though not a resident of the receiving state and not having his family residing there, the receiving state consents to such person being sent there.

Opportunity for investigation.

Before granting such permission, opportunity shall be granted to the receiving state to investigate the home and prospective employment of such person.

Term of residence required.

A resident of the receiving state, within the meaning of this section, is one who has been an actual inhabitant of such state continuously for more than one year prior to his coming to the sending state and has not resided within the sending state more than six continuous months immediately preceding the commission of the offense for which he has been convicted.

Visitation and supervision by receiving state.

(2) That each receiving state will assume the duties of visitation of and supervision over probationers or parolees of any sending state and in the exercise of those duties will be governed by the same standards that prevail for its own probationers and parolees.

Sending state may retake probationer.

(3) That duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any person on probation or parole. For that purpose no formalities will be required other than establishing the authority of the officer and the identity

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Extradition waived.

of the person to be retaken. All legal requirements to obtain extradition of fugitives from justice are hereby expressly waived on the part of states party hereto, as to such persons. The decision of the sending state to retake a person on probation or parole shall be conclusive upon and not reviewable within the receiving state: Provided, however, that if at the time when a state seeks to retake a probationer or parolee there should be pending against him within the receiving state any criminal charge, or he should be suspected of having committed within such state a criminal offense, he shall not be retaken without the consent of the receiving state until discharged from prosecution or from imprisonment for such offense.

Proviso, as to consent by receiving state.

Interstate transportation of prisoners.

(4) That the duly accredited officers of the sending state will be permitted to transport prisoners being retaken through any and all states parties to this compact, without interference.

Joint rules and regulations.

(5) That the governor of each state may designate an officer who, acting jointly with like officers of other contracting states, if and when appointed, shall promulgate such rules and regulations as may be deemed necessary to more effectively carry out the terms of this compact.

When operative.

(6) That this compact shall become operative immediately upon its ratification by any state as between it and any other state or states so ratifying. When ratified it shall have the full force and effect of law within such state, the form of ratification to be in accordance with the laws of the ratifying state.

Ratification.

(7) That this compact shall continue in force and remain binding upon each ratifying state until renounced by it. The duties and obligations hereunder of a renouncing state shall continue as to parolees or probationers residing therein at the time of withdrawal until retaken or finally discharged by the sending state. Renunciation of this compact shall be by the same authority which ratified it, by sending six months' notice in writing of its intention to withdraw from the compact to the other states party hereto.

Renunciation of compact.

Validity of act.

Section 2. If any section, sentence, subdivision or clause of this act is for any reason held invalid or to be

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unconstitutional, such decision shall not affect the validity of the remaining portions of this act.

Effective date.

Section 3. Whereas an emergency exists for the immediate taking effect of this act, the same shall become effective immediately upon its passage.

Short title.

Section 4. This act may be cited as the Uniform Act for Out-of-State Parolee Supervision.

Approved March 18, 1937.

CHAPTER 190

An Act to Make Uniform the Procedure on Interstate Extradition.

Be it enacted by the Legislative Assembly of the State of Montana:

"Governor."

Section 1. **Definitions.** Where appearing in this act, the term "governor" includes any person performing the functions of governor by authority of the law of this State. The term "executive authority" includes the governor, and any person performing the functions of governor in a state other than this State. The term "state", referring to a state other than this State, includes any other state or territory, organized or unorganized, of the United States of America.

"Executive authority."

"State."

Duty of governor to arrest fugitives.

Section 2. **Fugitives From Justice; Duty of Governor.** Subject to the provisions of this act, the provisions of the constitution of the United States controlling, and any and all acts of congress enacted in pursuance thereof, it is the duty of the governor of this State to have arrested and delivered up to the executive authority of any other state of the United States any person charged in that state with treason, felony, or other crime, who has fled from justice and is found in this State.

Demand for extradition.

Section 3. **Demand; Form.** No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless in writing alleging that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, except in cases arising under Section 6, and accompanied by a

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copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of his bail, probation or parole. The indictment, information, or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that state; and the copy of indictment, information, affidavit, judgment of conviction or sentence must be authenticated by the executive authority making the demand.

Copy of judgment of conviction.

Copy of indictment.

Investigation by governor.

Section 4. **Investigation by Governor.** When a demand shall be made upon the governor of this State by the executive authority of another state for the surrender of a person so charged with crime, the governor may call upon the attorney general or any prosecuting officer in this State to investigate or assist in investigating the demand, and to report to him the situation and circumstances of the person so demanded, and whether he ought to be surrendered.

Extradition of person in prison in another state.

Section 5. **Extradition of Persons Imprisoned or Awaiting Trial in Another State or Who Have Left the Demanding State Under Compulsion.** When it is desired to have returned to this State a person charged in this State with a crime, and such person is imprisoned or is held under criminal proceedings then pending against him in another state, the governor of this State may agree with the executive authority of such other state for the extradition of such person before the conclusion of such proceedings or his term of sentence in such other state, upon condition that such person be returned to such other state at the expense of this State as soon as the prosecution in this State is terminated.

Agreement for return of such person.

Governor may surrender demanded person.

The governor of this State may also surrender on demand of the governor of any other state any person in this State who is charged in the manner provided in Section 23 of this act with having violated the laws of the state whose governor is making the demand, even

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though such person left the demanding state involuntarily.

Extradition of persons not present in demanding state at time of commission of crime.

Section 6. **Extradition of Persons Not Present in Demanding State at Time of Commission of Crime.** The governor of this State may also surrender, on demand of the executive authority of any other state, any person in this State charged in such other state in the manner provided in Section 3 with committing an act in this State, or in a third state, intentionally resulting in a crime in the state whose executive authority is making the demand, and the provisions of this act not otherwise inconsistent, shall apply to such cases, even though the accused was not in that state at the time of the commission of the crime, and has not fled therefrom.

Warrant of arrest of demanded person.

Section 7. **Issuance of Warrant of Arrest by Governor; Recitals Therein.** If the governor decides that the demand should be complied with, he shall sign a warrant of arrest, which shall be sealed with the state seal, and be directed to any peace officer or other person whom he may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.

Execution of warrant.

Section 8. **Execution of Warrant; Manner and Place Thereof.** Such warrant shall authorize the peace officer or other person to whom directed to arrest the accused at any time and any place where he may be found within the state and to command the aid of all peace officers or other persons in the execution of the warrant, and to deliver the accused, subject to the provisions of this act to the duly authorized agent of the demanding state.

Delivery of accused.

Authority of arresting officer.

Section 9. **Authority of Arresting Officer.** Every such peace officer or other person empowered to make the arrest, shall have the same authority, in arresting the accused, to command assistance therein, as peace officers have by law in the execution of any criminal process directed to them, with like penalties against those who refuse their assistance.

Rights of accused person.

Section 10. **Rights of Accused Person; Application for Writ of Habeas Corpus.** No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding him shall have appointed to receive him unless he shall first be taken forthwith

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before a judge of a court of record in this State, who shall inform him of the demand made for his surrender and of the crime with which he is charged, and that he has the right to demand and procure legal counsel; and if the prisoner or his counsel shall state that he or they desire to test the legality of his arrest, the judge of such court of record shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. When such writ is applied for, notice thereof, and of the time and place of hearing thereon, shall be given to the prosecuting officer of the county in which the arrest is made and in which the accused is in custody, and to the said agent of the demanding state.

Legal counsel.

Application for writ of habeas corpus.

Penalty for non-compliance with preceding section.

Section 11. **Penalty for Non-compliance With Preceding Section.** Any officer who shall deliver to the agent for extradition of the demanding state a person in his custody under the governor's warrant, in wilful disobedience to the last section, shall be guilty of a misdemeanor and, on conviction, shall be fined not more than $1,000.00 or be imprisoned not more than six months, or both.

Confinement of accused in jail when necessary.

Section 12. **Confinement of Accused in Jail When Necessary.** The officer or persons executing the governor's warrant of arrest, or the agent of the demanding state to whom the prisoner may have been delivered may, when necessary, confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or person having charge of him is ready to proceed on his route, such officer or person, however, being chargeable with the expense of keeping.

Confinement of prisoner being transported through state.

The officer or agent of a demanding state to whom a prisoner may have been delivered following extradition proceedings in another state, or to whom a prisoner may have been delivered after waiving extradition in such other state, and who is passing through this State with such a prisoner for the purpose of immediately returning such prisoner to the demanding state may, when necessary, confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or agent having charge of him is ready to proceed on his route, such officer or agent, however, being

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chargeable with the expense of keeping; provided, however, that such officer or agent shall produce and show to the keeper of such jail satisfactory written evidence of the fact that he is actually transporting such prisoner to the demanding state after a requisition by the executive authority of such demanding state. Such prisoner shall not be entitled to demand a new requisition while in this State.

Proviso, as to production of evidence of fact.

Section 13. **Arrest of Accused Before Making of Requisition.** Whenever any person within this State shall be charged on the oath of any credible person before any judge or magistrate of this State with the commission of any crime in any other state, and, except in cases arising under Section 6 with having fled from justice, or, with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation or parole, or whenever complaint shall have been made before any judge or magistrate in this State setting forth on the affidavit of any credible person in another state that a crime has been committed in such other state and that the accused has been charged in such state with the commission of the crime, and, except in cases arising under Section 6, has fled from justice, or with having been convicted of a crime in that state and having escaped from bail, probation or parole and is believed to be in this State, the judge or magistrate shall issue a warrant directed to any peace officer commanding him to apprehend the person named therein, wherever he may be found in this State, and to bring him before the same or any other judge, magistrate or court who or which may be available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit, and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

Arrest of accused before making of requisition.

Section 14. **Arrest of Accused Without Warrant Therefor.** The arrest of a person may be lawfully made also by any peace officer or a private person, without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed

Arrest of accused without warrant, when.

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and complaint must be made against him under oath setting forth the ground for the arrest as in the preceding section; and thereafter his answer shall be heard as if he had been arrested on a warrant.

Commitment to await requisition.

Section 15. **Commitment to Await Requisition; Bail.** If from the examination before the judge or magistrate it appears that the person held is the person charged with having committed the crime alleged, and, except in cases arising under Section 6, that he has fled from justice, the judge or magistrate must, by a warrant reciting the accusation, commit him to the county jail for such a time not exceeding thirty days and specified in the warrant, as will enable the arrest of the accused to be made under a warrant of the governor on a requisition of the executive authority of the state having jurisdiction of the offense, unless the accused give bail as provided in the next section, or until he shall be legally discharged.

Bail, in what cases.

Section 16. **Bail; in What Cases; Conditions of Bond.** Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or magistrate in this State may admit the person arrested to bail by bond or undertaking, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond or undertaking, and for his surrender, to be arrested upon the warrant of the governor of this State.

Conditions of bond.

Extension of time of commitment.

Section 17. **Extension of Time of Commitment Adjournment.** If the accused is not arrested under warrant of the governor by the expiration of the time specified in the warrant, bond, or undertaking, a judge or magistrate may discharge him or may recommit him for a further period of sixty (60) days, or a supreme court justice or county judge may again take bail for his appearance and surrender, as provided in Section 16, but within a period not to exceed sixty (60) days after the date of such new bond or undertaking.

Forfeiture of bail bond.

Section 18. **Bail; When Forfeited.** If the prisoner is admitted to bail, and fails to appear and surrender himself according to the conditions of his bond, the judge, or magistrate by proper order, shall declare the bond

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forfeited and order his immediate arrest without warrant if he be within this State. Recovery may be had on such bond in the name of the state as in the case of other bonds or undertakings given by the accused in criminal proceedings within this State.

Recovery on bond.

Section 19. **Persons Under Criminal Prosecution in This State at Time of Requisition.** If a criminal prosecution has been instituted against such person under the laws of this State and is still pending, the governor, in his discretion, either may surrender him on demand of the executive authority of another state or hold him until he has been tried and discharged or convicted and punished in this State.

Persons under criminal prosecution in this state at time of requisition.

Section 20. **Guilt or Innocence of Accused, When Inquired Into.** The guilt or innocence of the accused as to the crime of which he is charged may not be inquired into by the governor or in any proceeding after the demand for extradition accompanied by a charge of crime in legal form as above provided shall have been presented to the governor, except as it may be involved in identifying the person held as the person charged with the crime.

Guilt or innocence of accused, when inquired into.

Section 21. **Alias Warrant of Arrest.** The governor may recall his warrant of arrest or may issue another warrant whenever he deems proper.

Alias warrant of arrest.

Section 22. **Fugitives From This State; Duty of Governors.** Whenever the governor of this State shall demand a person charged with crime or with escaping from confinement or breaking the terms of his bail, probation or parole in this State, from the chief executive of any other state, or from the chief justice or an associate justice of the supreme court of the District of Columbia authorized to receive such demand under the laws of the United States, he shall issue a warrant under the seal of this State, to some agent, commanding him to receive the person so charged if delivered to him and convey him to the proper officer of the county in this State in which the offense was committed.

Fugitives from this state.

Warrant by governor of other state.

Section 23. **Application for Issuance of Requisition; by Whom Made; Contents.**

I. When the return to this State of a person charged with crime in this State is required, the prosecuting attorney shall present to the governor his written appli-

Application for issuance of requisition.

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cation for a requisition for the return of the person charged, in which the person so charged, the crime charged against him, the approximate time, place and circumstances of its commission, the state in which he is believed to be, including the location of the accused therein at the time the application is made and certifying that, in the opinion of the said prosecuting attorney the ends of justice require the arrest and return of the accused to this State for trial and that the proceeding is not instituted to enforce a private claim.

Same, as to convicted person who has escaped from confinement.

II. When the return to this State is required of a person who has been convicted of a crime in this State and has escaped from confinement or broken the terms of his bail, probation or parole, the prosecuting attorney of the county in which the offense was committed, the parole board, or the warden of the institution or sheriff of the county, from which escape was made, shall present to the governor a written application for a requisition for the return of such person, in which application shall be stated the name of the person, the crime of which he was convicted, the circumstances of his escape from confinement or of the breach of the terms of his bail, probation or parole, the state in which he is believed to be, including the location of the person therein at the time application is made.

Other provisions as to application.

III. The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the judge or magistrate, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The prosecuting officer, parole board, warden or sheriff may also attach such further affidavits and other documents in duplicate as he shall deem proper to be submitted with such application. One copy of the application, with the action of the governor indicated by endorsement thereon, and one of the certified copies of the indictment, complaint, information, and affidavits, or of the judgment of conviction or of the sentence shall be filed in the office of the secretary of state to remain of record in that office. The other copies of all papers shall be forwarded with the governor's requisition.

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Fugitives from this state, accounts of person bringing them back.

Section 24. **Fugitives From This State—Accounts.** When the governor of this State, in the exercise of the authority conferred by Section 2, Article IV, of the constitution of the United States, or by the laws of this State, demands from the executive authority of any state of the United States, or of any foreign government, the surrender to the authorities of this State of a fugitive from justice, who has been found and arrested in such state or foreign government, the accounts of the person employed by him to bring back such fugitive must be audited by the board of examiners, and paid out of the state treasury.

Immunity from civil process in actions on same facts.

Section 25. **Immunity From Service of Process in Certain Civil Actions.** A person brought into this State on, or after waiver of, extradition based on a criminal charge shall not be subject to service of personal process in civil actions arising out of the same facts as the criminal proceeding to answer which he is being or has been returned, until he has been convicted in the criminal proceeding, or, if acquitted, until he has had reasonable opportunity to return to the state from which he was extradited.

Written waiver of extradition proceedings.

Section 25-a. **Written Waiver of Extradition Proceedings.** Any person arrested in this State charged with having committed any crime in another state or alleged to have escaped from confinement, or broken the terms of his bail, probation or parole may waive the issuance and service of the warrant provided for in Sections 7 and 8 and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge of any court of record within this State a writing which states that he consents to return to the demanding state; provided, however, that before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in Section 10.

Procedure following such waiver.

If and when such consent has been duly executed it shall forthwith be forwarded to the office of the governor of this State and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause

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to be delivered to such agent or agents a copy of such consent; provided, however, that nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding state or of this State.

Accused may return voluntarily to demanding state.

Section 25-b. **Non-waiver by This State.** Nothing in this act contained shall be deemed to constitute a waiver by this State of its right, power or privilege to try such demanded person for crime committed within this State, or of its right, power or privilege to regain custody of such person by extradition proceedings or otherwise for the purpose of trial, a sentence or punishment for any crime committed within this State, nor shall any proceedings had under this act which result in, or fail to result in, extradition be deemed a waiver by this State of any of its rights, privileges or jurisdiction in any way whatsoever.

Non-waiver by this state.

Section 26. **No Immunity From Other Criminal Prosecutions While in This State.** After a person has been brought back to this State by extradition proceedings, he may be tried in this State for other crimes which he may be charged with having committed here as well as that specified in the requisition for his extradition.

No immunity while in this state as to prosecution for other crimes.

Section 27. **Interpretation.** The provisions of this act shall be so interpreted and construed as to effectuate its general purposes to make uniform the law of those states which enact it.

Interpretation.

Section 28. **Constitutionality.** If any part of this act is for any reason declared void, such invalidity shall not affect the validity of the remaining portions thereof.

Constitutionality.

Section 29. **Repeal.** All acts and parts of acts inconsistent with the provisions of this act and not expressly repealed herein are hereby repealed.

Repealing clause.

Section 30. **Short Title.** This act may be cited as the Uniform Criminal Extradition Act.

Short title.

Section 31. This act shall be in full force and effect from and after its passage approval.

Effective date.

Approved March 18, 1937.

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CHAPTER 191

An Act Relating to Powers of Irrigation Districts and the Commissioners Thereof, and Authorizing Such Districts to Convey, Assign, Transfer, and Set Over to the State Water Conservation Board or Other Persons Its Property Including, Water Rights, Rights of Way, and Easements for Reservoirs, Canals, Ditches, Laterals and Headgates for the Purpose of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Conveyance of property of irrigation districts to state water conservation board.

Section 1. That in addition to all other powers heretofore granted any irrigation district, existing under the laws of Montana, for the purpose of securing financial aid in any form from the state water conservation board, shall be authorized and empowered to convey, assign, transfer and set over to the said state water conservation board all or any part of its property, including all water rights, rights of way, and easements for reservoirs, reservoir sites, canals, ditches, laterals, and headgates, as may be required by the said board as a condition to furnishing such financial aid or assistance.

Conveyance to person or association, for what purpose.

Section 2. If any irrigation district has ceased operation, such district prior to its dissolution shall be authorized and empowered to convey, assign, transfer and set over to any person or association of persons all or any part of its said property enumerated in Section 1, hereof, for the purpose of irrigating and reclaiming any or all other land which can be served and irrigated therefrom.

Effective date.

Section 3. This act shall be in full force and effect from and after the date of its passage and approval.

Approved March 18, 1937.

CHAPTER 192

An Act to Amend Section 3594 and 3599 of the Revised Codes of Montana of 1935, Relating to the Labeling of Agricultural Seed and Having Seeds Tested for the Purpose of Labeling.

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Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 3594, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Labeling of agricultural seed.

"Section 3594. **Labeling of Agricultural Seed.** The owner or person in possession of each and every package, parcel, or lot of agricultural seeds, as defined in the preceding section, which contains one pound or more of such agricultural seeds, whether in package or in bulk, shall affix thereto, in a conspicuous place on the exterior of the container of such agricultural seeds, a written or printed label in the English language in legible type or copy, such label containing a statement specifying:

Contents of label.

Name of seed.

1. The commonly accepted name of the kind or kinds of such agricultural seed, together with the variety name, and if such is unknown, a statement to that effect.

Where grown.

1a. Name of state in which such agricultural seed was grown, and if this is unknown, a statement to that effect.

Percentage of germination.

2. The approximate percentage of germination of such agricultural seed, together with the date of test of germination. In all cases where hard seeds remain at the end of the germination test, the percentage of actual germination and the percentage of hard seeds shall be stated separately; with the provision that any portion or all of the percentage of such hard seeds may be added to the precentage of germination, and stated as "total live seed".

Purity.

3. The approximate percentage by weight of purity; meaning a freedom of such agricultural seeds from inert matter and from other seeds distinguishable by their appearance.

Percentage of sand, dirt, etc.

4. The approximate percentage by weight of sand, dirt, broken seeds, sticks, chaff, and other inert matter combined in such agricultural seeds.

Percentage of "weed seeds."

5. The approximate total percentage by weight of weed seeds; the term "weed seeds" as herein used, being defined as the noxious weeds listed in subdivision 6 of this section and all seeds not listed in section 3593 as agricultural seeds.

Percentage of other crop seeds.

5a. The approximate percentage by weight of other crop seeds in such agricultural seeds.

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Seeds of specified noxious weeds.

6. The name and approximate number per ounce of each kind of the seeds of the following named noxious weeds: Quack grass, fan weed or French weed, wild oats, dodder, Canada thistle, wild mustard, wild morning glory, white top, leafy spurge, perennial sow thistle, Russian knapweed, and blue lettuce, if any such are found in such agricultural seeds in quantities in excess of one in portions of the seed equal to the following: (a) Five (5) grams of small seeds defined as timothy, red top, tall meadow oat grass, orchard grass, crested dogstail, Canada blue grass, Kentucky blue grass, fescues, brome grasses, perennial and Italian rye grass, western rye grass, crimson clover, red clover, white clover, alsike clover, sweet clover, alfalfa and all other grasses and clovers not otherwise classified: (b) Twenty-five (25) grams of medium sized seeds defined as millets, rape, flax, and other seeds not specified in (1) or (3) of this sub-section. (c) One hundred grams of wheat, oats, rye, barley, buckwheat, vetches, and other seeds as large or larger than wheat.

Name and address of dealer.

7. The full name and address of the seedsman, importer, dealer or agent or of other persons or person, firm or corporation selling, offering, or exposing the said agricultural seed for sale.

Labeling mixtures of seeds.

8. Mixtures of agricultural seeds which contain two (2) or more kinds of such seeds in excess of five per centum (5) by weight of each, when sold, offered or exposed for sale as mixtures, shall have affixed thereto, in a conspicuous place on the exterior of the container of such mixture of seeds, a plainly written or printed tag or label, in the English language, stating:

Contents of label.

(a) Name of mixture.

Name and percentage of kinds.

(b) The name and approximate percentage of weight of each kind of agricultural seed present in such mixture in excess of five (5) per cent by weight of the total mixture.

Percentage of inert matter.

(bb) Approximate percentage by weight of broken seeds and other inert matter in such mixture of agricultural seeds.

Weed seeds.

(c) Approximate percentage by weight of weed seeds as defined in subdivision 6 of this section.

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Other crop seeds.

(cc) Approximate percentage by weight of other crop seed in such mixture of agricultural seeds.

Noxious weeds.

(e) The name and approximate number per ounce of each kind of the seeds or bulblets of the noxious weeds listed in subdivision 6, of this section, which are present singly or collectively in excess of one seed or bulblet in each fifteen (15) grams of such mixture.

Germination.

(e) Approximate percentage of germination of each kind of agricultural seed present in such mixture in excess of five per centum (5%) by weight, together with the month and year said seed was tested. In all cases where hard seeds remain at the end of the germination test, the percentage of actual germination and the percentage of hard seeds shall be stated separately; with the provision that any portion or all of such hard seed may be added to the percentage of germination and stated as "total live seed".

Vendor.

(f) Full name and address of the vendor of such mixture.

Blank spaces on label.

(g) When space is provided on labels appearing on seed, providing for the insertion of specific items relative thereto and such spaces are left open, the blank space or spaces shall be deemed to imply that the word "none" was intended, when such interpretation is reasonable.

Form of label required.

9. **Form of Label Required.** The Montana commissioner of agriculture, labor and industry shall prescribe the form of labels to be used as provided for in Section 3594. In addition to the other requirements, provision shall be made for identifying the seed by lot number or other distinguishing mark.

10. **Definitions of "Approximate" and "Germination".**

"Approximate percentage."

"Approximate number."

(a) The terms "approximate percentage" and "approximate number", as used in this act, shall mean the percentage or number with the variations above or below as allowed according to the tolerance limits defined in the "Rules for Seed Testing" adopted and approved by the Association of Official Seed Analysts of North America.

"Percentage of germination."

(b) The term "percentage of germination" as used in this act shall mean the percentage of seeds which show normal sprouts as evidence of vitality when such seeds

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are subjected to the proper moisture and temperature conditions with proper aeration for the customary length of time for each specific kind or kinds of such seed, as specified in the "Rules for Seed Testing" adopted and approved by the Association of Official Seed Analysts of North America."

Amending clause.

Section 2. That Section 3599, Revised Codes of Montana, 1935, be, and the same is hereby, amended to read as follows:

Sending samples to laboratory for testing.

"Section 3599. **Samples May Be Sent to Laboratory for Tests.** Any citizen of the State of Montana, in accordance with the regulations prescribed by the Montana agricultural experiment station and by prepaying the transportation charges, may send samples or a sample of seed to said grain laboratory of the Montana agricultural experiment station for examination, analysis, and tests. Provision shall be made by said laboratory for making such examinations, analyses, or tests of a certain maximum number of samples of seed each year for any citizen of Montana free of charge, after which a nominal fee shall be charged for testing each sample of seed received."

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 18, 1937.

CHAPTER 193

An Act Providing for the Placing and Arrangement of the "Nonpartisan Ballot" Upon the Ballot Used at Every General Election and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Placement and form of "Nonpartisan ballot."

Section 1. That the ballot containing the names of candidates to an office which is required by law to be nonpartisan shall be printed upon the same ballot as is used at every general election for the election of state

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and county officers. Said ballot shall be printed in a third column which shall be in addition to the two columns already provided for on the general election ballot by this Twenty-fifth Legislative Assembly, and shall be placed to the right of the column containing the names of candidates for county offices. At the head of the column provided for by this act shall be printed the words "nonpartisan ballot" and such column shall be as near as possible in the following form:

"Nonpartisan ballot."

NONPARTISAN BALLOT

For Supreme Court Justice
Vote for one

☐ (Name)

☐ (Name)

☐

For Judge of District Court
Fifteenth Judicial District
Vote for one

☐ (Name)

☐ (Name)

☐

and continuing as to all other offices to be filled by "nonpartisan ballot".

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Section 2. That all acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved March 18, 1937.

CHAPTER 194

An Act Providing for the Observance of "Constitution Day" Within the State of Montana and Further Providing for Appropriate Exercises to Be Held in Public Schools and High Schools Within the State in Commemoration of Such Day.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the 17th day of September of each year shall be designated and known as "Constitution Day" in the State of Montana. Designating "constitution day."

Section 2. That all public schools and high schools within the State shall observe "Constitution Day" by conducting appropriate exercises in commemoration thereof under the direction of the superintendent of public instruction. To be observed by public schools.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 4. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved March 18, 1937.

CHAPTER 195

An Act Authorizing the Montana Rural Rehabilitation Corporation to Bargain, Sell, Convey, Transfer or Assign Any or All of Its Assets and Property to the United States of America Under Certain Conditions; Authorizing the Said Corporation to Permit and Empower the Secretary of Agriculture or His Successors, Exclusively to Manage and Direct the Affairs of the Said Corporation, and Ratifying Certain Acts of the Said Corporation.

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Recitals.

Whereas, the Montana Rural Rehabilitation Corporation was organized and has been operating for the purpose of carrying on a rural rehabilitation program in the State of Montana with funds resulting from grants made by the United States through the federal emergency relief administration; and

Whereas, by Executive Order No. 7027, issued April 30, 1935 by the president of the United States, under the emergency relief appropriation act of 1935, the resettlement administration of the United States was created and the functions of rural rehabilitation were transferred from the federal emergency relief administration to the resettlement administration; and

Whereas, by Executive Order No. 7530, issued December 31, 1936 by the president of the United States, the resettlement administration was transferred to the United States department of agriculture and is now being administered under the direction of the secretary of agriculture; and

Whereas, under the emergency relief appropriation acts of 1935 and 1936 federal funds cannot be made available either to the corporation or the state for carrying on the activities of the corporation and such funds are available only for direct expenditure by the United States department of agriculture resettlement administration; and

Whereas, it is desirable that all rural rehabilitation activities in Montana be co-ordinated and controlled and managed by the same organization; now, therefore,

Be it enacted by the Legislative Assembly of the State of Montana:

Montana rural rehabilitation corporation authorized to convey assets to United States.

Section 1. That the Montana Rural Rehabilitation Corporation be and it is hereby authorized to bargain, sell, convey, transfer or assign to the United States of America any or all of its assets and property, whether real, personal or mixed, so that the administration of the assets and the expenditure of the funds of the said corporation may be co-ordinated with expenditures of the United States department of agriculture resettlement administration for relief and rural rehabilitation purposes in the State of Montana; provided, however, that the United States of America shall make provision out of the assets and property transferred pursuant to this

Proviso, as to use and disposition thereof.

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section and the proceeds thereof for the liquidation and discharge of the liabilities, commitments and obligations of the corporation, and provided further that any funds transferred or any funds realized from any of the assets and property transferred shall be held in the treasury of the United States as a trust fund and that all of such assets and property shall be continuously available as a revolving fund for relief and rural rehabilitation purposes in the State of Montana; and provided further that when the federal government shall cease using these assets and property or the proceeds thereof for such purposes the remainder thereof, after the liquidation of any claims then existing against such assets and property, shall be retransferred to the corporation except that if the corporation shall not be in existence at such time or if the legislature of the State of Montana shall so designate the said remainder shall be turned over to the state treasurer of the State of Montana subject to appropriation by the legislative assembly to the general fund or for such public purposes as it may prescribe.

Managements of its assets pending such transfer.

Section 2. That, pending such transfer, the Montana Rural Rehabilitation Corporation be, and it is hereby, authorized to permit and empower the secretary of agriculture or the head of any other federal agency in which may hereafter be vested the function of carrying out rural rehabilitation activities in the State of Montana, exclusively to manage and direct the administration of its assets and the expenditure of its funds for the purpose set forth above in such manner as the said secretary of agriculture or head of such other agency shall determine.

Ratification of action taken by corporation.

Section 3. That any action heretofore taken by the Montana Rural Rehabilitation Corporation to effect the purposes authorized by Sections 1 and 2 hereof be, and the same is, ratified and authorized.

Repealing clause.

Section 4. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Effective date.

Section 5. This act shall be in full force and effect from and after its passage and approval.

Approved March 18, 1937.

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CHAPTER 196

An Act to Amend Section 12543, Revised Codes of Montana, 1935, Relating to Rescues, Attempts to Rescue and Permitting Inmates of the Vocational School for Girls to Escape, Making Same a Crime and Fixing the Punishment for Such Crime, and Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 12543, of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Rescuing inmates or permitting escapes.

"Section 12543. **Rescuing Inmates or Permitting Escapes—Punishment.** Every person who rescues or attempts to rescue, or aids any other person in rescuing, or attempting to rescue, any inmate of, in or from the vocational school for girls, or from any person or officer having her in lawful custody, or who shall contrive, procure, connive at, or otherwise voluntarily aid in or suffer the escape of any inmate of, in or from said school, shall, on conviction thereof, be punished by imprisonment in the state prison for a period of not less than six (6) months nor more than two (2) years, or be fined in a sum not exceeding one thousand dollars ($1000.00), or by both such fine and imprisonment."

Punishment.

Assisting inmate to escape.

Section 2. Every person who wilfully assists any inmate committed to or confined in such school or in the lawful custody of any officer or person to escape, or in an attempt to escape from such school or custody, is punishable as provided in the preceding section.

Punishment.

Repealing clause.

Section 3. All parts of Section 12543 of the Revised Codes of Montana of 1935 in conflict herewith are hereby repealed.

Effective date.

Section 4. This act shall take effect and be in full force from and after its passage and approval.

Approved March 18, 1937.

CHAPTER 197

An Act to Authorize Any Bank, Trust Company, Banking Association, Stock Savings Bank or Mutual Sav-

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ings Bank Now or Hereafter Organized Under the Laws of This State, or the Superintendent of Banks as the Liquidating Agent Thereof, to Enter Into Such Contracts, Incur Such Obligations and Generally to Do Such Acts as May Be Appropriate or Necessary to Take Advantage of Any and All Memberships, Loans, Subscriptions, Contracts, Grants, Rights or Privileges Which May, at Any Time, Be Available or Enure to Said Banking Institutions or Their Depositors or Stockholders, or the Superintendent of Banks as Liquidating Agent, by Virtue of Any Act or Resolution of the Congress of the United States to Aid, Regulate or Safeguard Banking Institutions and Depositors, Including the Act Creating the Federal Deposit Insurance Corporation; to Empower Any Such Banking Institution to Subscribe to and Acquire Any Stock or Debentures or Bonds or Other Types of Securities of Said Corporation and to Comply With Its Regulations and Requirements; to Authorize the Superintendent of Banks to Appoint the Federal Deposit Insurance Corporation as His Agent in the Liquidation of Any Such Insured Closed Banking Institution; to Authorize Said Corporation to Make Loans to Same and to the Superintendent of Banks as Liquidating Agent Therefor; to Provide for the Subrogation of Said Corporation to the Rights Against Said Closed Institutions of All Insured Depositors, Whose Deposits Have Been Paid, or for the Payment of Which Funds Have Been Made Available; to Recognize Right of Said Corporation to Make Examinations of and to Require Reports From Such Institution, and the Superintendent of Banks to Accept Same in Lieu of Any Examination or Report Authorized to Be Made to Said Official; to Provide for Disclosure by Said Superintendent of Banks to Said Corporation of the Condition and Affairs of Such Insured Institution and Access to Information Regarding Same.

Be it enacted by the Legislative Assembly of the State of Montana:

"Banking institution."

Section 1. The term "banking institution", as used in this act shall be construed to mean any bank, trust company, bank and trust company, stock savings bank or mutual savings bank, which is now or may hereafter be organized under the laws of this State.

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Banking institutions empowered to enter into contracts, etc., necessary to take advantage of benefits of federal deposit insurance corporation.

Section 2. Any banking institution now or hereafter organized under the laws of this State is hereby empowered, on the authority of its board of directors, or a majority thereof, to enter into such contracts, incur such obligations and generally to do and perform any and all such acts and things whatsoever as may be necessary or appropriate in order to take advantage of any and all memberships, loans, subscriptions, contracts, grants, rights or privileges, which may at any time be available or enure to banking institutions or to their depositors, creditors, stockholders, conservators or liquidators, by virtue of those provisions of Section 12B of the federal reserve act, as amended, which establish the Federal Deposit Insurance Corporation and provide for the insurance of deposits, or of any other provisions of that or of any other act or resolution of congress to aid, regulate or safeguard banking institutions and their depositors, including any amendments of the same or any substitutions therefor; also, to subscribe for and acquire any stock, debentures, bonds or other types of securities of the Federal Deposit Insurance Corporation, and to comply with the lawful regulations and requirements from time to time issued or made by such corporation.

May subscribe for stock of said corporation.

Superintendent of banks may appoint said corporation agent.

Section 3. In the event any banking institution, the deposits in which are in any extent insured by the Federal Deposit Insurance Corporation created by Section 12B of the federal reserve act as amended, is closed on account of inability to meet the demands of its creditors, the superintendent of banks may appoint said corporation agent, without bond, to assist him or act for him in the liquidation of such banking institution.

Subrogation of said Corporation to rights against closed banking institution.

Section 4. Whenever any banking institution shall have been closed as aforesaid, and said Federal Deposit Insurance Corporation shall pay or make available for payment the insured deposit liabilities of such closed institution, said corporation, whether or not it shall have been appointed agent of the superintendent of banks in the liquidation of such closed banking institution, as herein provided, shall be and become subrogated by operation of law to all rights against such closed banking institution of each owner of a claim for deposit to the extent now or hereafter necessary to enable the Federal Deposit Insurance Corporation, under federal law, to

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make insurance payments available to depositors of closed insured banks.

Superintendent of banks may accept examination made by said corporation.

Section 5. The superintendent of banks is authorized to accept, in his discretion, in lieu of any examination authorized by the laws of this State to be conducted by his department of a banking institution the examination that may have been made of same within a reasonable period by the Federal Deposit Insurance Corporation; provided, a signed copy of said examination is furnished to said superintendent of banks. Said superintendent of banks may, also in his discretion, accept any report relative to the condition of a banking institution which may have been obtained by said corporation within a reasonable period, in lieu of a report authorized by the laws of this State to be required of such institution by his department; provided a copy of such report is furnished to said superintendent of banks, and may in his discretion disclose to said corporation, or any official or examiner thereof, any information possessed by the office of said superintendent of banks with reference to the conditions or affairs of any such insured institution.

Acceptance of report.

Said superintendent of banks may furnish to said corporation, or to any official or examiner thereof, a copy or copies of any or all examinations made of any such banking institutions and of any or all reports made by same.

Duty of banking institutions not limited hereby.

Nothing in this section shall be construed to limit the duty of any banking institution in this State, deposits in which are to any extent insured under the provisions of Section 12B of the federal reserve act, as amended, or of any amendment of or substitution for the same, to comply with the provisions of said act, its amendments or substitutions, or the requirements of said corporation relative to examinations and reports, nor to limit the powers of the superintendent of banks with reference to examinations and reports under existing law.

Borrowing money from and selling assets of closed bank to said corporation.

Section 6. Any banking institution, which is now or may hereafter be closed on account of inability to meet the demands of its depositors or by action of the superintendent of banks or by action of its directors or in the event of its insolvency or suspension, the superintendent of banks or his agent, with the permission of the court

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having jurisdiction thereof, may borrow from said corporation and furnish any part or all of the assets of said institution to said corporation as security for a loan from same. Said superintendent of banks upon the order of a court of record of competent jurisdiction may sell to said corporation any part or all of the assets of such institution. The provisions of this section shall not be construed to limit the power of any banking institution, or the superintendent of banks to pledge or sell assets in accordance with any existing law.

Powers not limited hereby.

Validity of act.

Section 7. The validity of any provision or part of this act shall not be dependent upon any other provision or part thereof. If any provision or part thereof should for any reason be held unconstitutional or invalid, such decision shall not affect the validity of any of the remaining provisions or parts of this act.

Repealing clause.

Section 8. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 9. This act shall be in full force and effect from and after its passage and approval.

Approved March 18, 1937.

CHAPTER 198

An Act to Amend Section 6011 of the Revised Codes of Montana of 1935, Relating to the Winding up of the Affairs of Dissolved Corporations; Defining the Powers and Duties of Surviving Directors as Trustees of Such Corporation and of Trustees Appointed to Succeed Such Directors as Trustees of Such Corporations; Providing That Such Trustees May Sue and Be Sued; Providing for the Winding up of the Affairs and the Disposition of the Property of a Dissolved Corporation; Providing a Procedure Therefor; Providing for Actions to Determine the Ownership of the Real Estate of Certain of Such Corporations and the Form of Decree in Such Actions and Making Other Provisions Germane to the General Purpose of Said Section.

Be it enacted by the Legislative Assembly of the State of Montana:

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Amending clause.

Section 1. That Section 6011 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Winding up the affairs and disposing of the property of dissolved corporations.

"Section 6011. **Winding up the Affairs of and Disposing of the Property of Dissolved Corporations.** The directors of any dissolved corporation who are such at the time such corporation shall become dissolved, become upon such dissolution the trustees of the creditors and stockholders of such corporation. Such trustees shall settle the affairs of such corporation, liquidate its assets and apply the proceeds of such liquidation to the payment of the expenses of such trustees, to the payment of its debts and other obligations, and distribute any surplus remaining to the stockholders of such corporation, in a proceeding in the district court of the county in which the principal place of business of such corporation was situated at the time of its dissolution. The procedure provided by the code of civil procedure for the probate of estates of deceased persons shall be followed in such proceeding, except that notice to creditors shall be published in each county in the State of Montana in which any real estate owned by such corporation at the time of its dissolution shall be situated, and that the time for presentation of claims shall in all cases be four (4) months from the date of the first publication of such notice; that sales of real property may be for cash, or upon option, with or without lease; that notice of any petition for final distribution shall be directed to the same persons and shall be served in the same manner as provided by Chapter 63 of the code of civil procedure in the case of summons in an action to quiet title under that chapter as against the world; and that the money or property of such corporation subject to distribution shall be distributed pro rata to those persons who shall, upon the hearing of such petition for distribution, establish their ownership of capital stock of such corporation, according to their respective stock ownerships, as so established in such proceeding.

Procedure.

Distribution of remaining property.

The court may, if it shall determine that it is to the best interests of the stockholders, distribute to such stockholders any property remaining after the payment of expenses of administration and of the debts of such corporation, without requiring that the same be turned into cash.

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The court shall also have power, and, upon the petition of the holders of the majority of the stock held by the persons who shall in such proceeding establish their ownership of stock of such corporation, it shall be its duty, to direct the transfer of the property of such corporation, subject to distribution, to a new corporation organized under the laws of the State of Montana, for the same purposes for which such dissolved corporation was organized, in exchange for all of the authorized capital stock of such new corporation, such capital stock to be issued pro rata to the persons so establishing their right to receive distribution of the property of said dissolved corporation, in accordance with the number of shares established by them respectively in the proceeding above provided for.

Transfer of property to new corporation.

All conveyances or other transfers of the property of such dissolved corporation executed and delivered by such trustees in accordance with the provisions of this section shall be effective to convey the legal title to the property described therein.

Effect of conveyances by trustees.

In the case of a corporation composed of members instead of stockholders the same procedure shall apply, and in any such case, for the purposes of this section, the word "stockholder" shall mean "member" and the word "stock" or the words "capital stock" shall mean "interest", "units" or other words descriptive of the interest of such members in such corporation and its assets.

Corporation composed of "members."

The term "trustees" as herein used shall include the singular as well as the plural.

"Trustees."

A corporation shall be deemed to be dissolved within the meaning of this section whenever its corporate powers shall have been completely lost by lapse of time, by the final judgment of a court of competent jurisdiction, by the action of its stockholders or members, or in any other manner.

Modes of dissolution of corporation.

In the event all of the directors of such dissolved corporation, who were such at the time of the dissolution of such corporation, shall have died, resigned, or refuse or be unable to act, the district court of the county in which was situated the principal place of business of such corporation at the time of its dissolution, shall, upon petition of a trustee, stockholder or creditor of such corporation, and upon a sufficient showing of the neces-

Appointment and powers and duties of trustee.

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sary facts, appoint a trustee or trustees who shall have the same powers and duties as are by this section conferred and imposed upon the directors of such corporation who were such at the time of the dissolution of such corporation.

Law applicable.

Any receiver or trustee appointed under the provisions of Chapter 45 of the code of civil procedure shall be governed by the provisions of this section as well as by the provisions of said Chapter 45.

Fees of trustees.

Fees shall be allowed to the trustees and their attorneys in accordance with the provisions of Chapter 135 of the code of civil procedure.

Corporations to which this section applies.

The provisions of this section shall apply to any corporation heretofore or hereafter dissolved and whether or not it owes debts or has other unfinished business, and such proceeding may be for the sole purpose of disposing of the assets of such corporation in one of the methods prescribed and permitted by this section.

Action to determine ownership of real estate of dissolved corporation.

In the case of a corporation which shall have become dissolved at or prior to the passage and approval of this act but has no affairs requiring a settlement or liquidation but owned real property which has not been disposed of, any stockholder may, in lieu of the proceeding hereinabove authorized, bring an action under the provisions of Chapter 63 of the code of civil procedure for the purpose of determining the ownership of the real estate of such corporation.

Decree.

In such case the decree shall award such real estate to the persons who shall in such proceeding establish their ownership of capital stock of such corporation, pro rata, according to their respective stock ownerships, as so established in such proceeding.

Attorney's fee.

In such action the court may allow the plaintiff a reasonable attorney's fee for bringing and prosecuting such action.

Trustees may sue or be sued.

The surviving trustees of any dissolved corporation or the trustees appointed in lieu thereof as provided by statute may sue and be sued with the same effect as such dissolved corporation might have sued or have been sued had it not become dissolved.

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"Stockholder." The term "stockholder", as used in this section, shall include not only stockholders of record upon the books of such corporation, but their successors in interest in the ownership of stock of such corporation."

Validity of act. Section 2. In the event any portion of said Section 6011 as amended by this act, shall, by a court of competent jurisdiction, be finally held to be unconstitutional for any reason, the remainder of said section shall nevertheless continue in force, provided such remaining provisions are workable and will effectuate any of the purposes of this act.

Effective date. Section 3. This act shall be in full force and effect from and after the date of its passage and approval.

Approved March 18, 1937.

CHAPTER 199

An Act Requiring Licenses for the Operation, Maintenance, Opening or Establishment of Stores in This State, the Classifying of Such Stores, Prescribing the License and Filing Fees to Be Paid Therefor and the Disposition Thereof, and the Powers and Duties of the State Board of Equalization in Connection Therewith; and Prescribing Penalties for the Violation Thereof and Repealing Sections 2420.1, 2420.2, 2420.3, 2420.4, 2420.5, 2420.6, 2420.7, 2420.8, 2420.9, 2420.10, 2420.11, Revised Codes of Montana, 1935.

Be It Enacted by the People of the State of Montana:

Operating store without license prohibited. Section 1. That from and after the first day of January A. D. 1938, it shall be unlawful for any person, firm, corporation, association or co-partnership, either foreign or domestic, to open, establish, operate or maintain any store or stores in this State without first having obtained a license to do so from the state board of equalization, as hereinafter provided.

Application for license. Section 2. Any person, firm, corporation, association, co-partnership or group desiring to open, establish, operate or maintain a store in the State of Montana shall apply to the state board of equalization for a license to do so. The application shall be made upon a form

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which shall be prescribed and furnished by the state board of equalization, and shall set forth the name of the owner, manager, trustee, lessee, stockholders, receiver or other persons desiring said license; the name of such store; the location, including street number; and all such other facts as the state board of equalization may require.

Separate application for each store.

If the applicant desires to open, establish, operate or maintain more than one such store, he shall make a separate application for a license to operate, maintain, open, or establish each such store, but the respective stores for which the applicant desires to secure licenses may all be listed upon one application blank.

Fees to accompany application.

Each such application shall be accompanied by a filing fee of fifty cents (50c) and by the license fee as prescribed in Sections five (5) and six (6) of this act.

Duty of state board of equalization.

Section 3. As soon as practicable after the receipt of any such application, the state board of equalization shall carefully examine such application to ascertain whether it is in proper form and contains the necessary and requisite information. If, upon examination, the state board of equalization shall find that such application is not in proper form and does not contain the necessary and requisite information, it shall return such application for correction.

Display of license.

If an application is found to be satisfactory, and if the filing and license fee, as herein prescribed, shall have been paid, the state board of equalization shall issue to the applicant a license for each store for which an application for a license shall have been made.

Each licensee shall display the license so issued in a conspicuous place in the store for which such license was issued.

Expiration of licenses.

Section 4. All licenses shall be so issued so as to expire upon the thirty-first day of December of each calendar year. On or before the first day of January of each year, every firm, person, corporation, association, co-partnership having a license, shall apply to the state board of equalization for a renewal license for the calendar year next ensuing. All applications for a renewal shall be made upon forms which shall be prescribed and furnished by the state board of equalization.

Renewal.

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Lapse of licenses.

No license shall lapse prior to the thirty-first day of January of the year next following the year for which the license was issued, and if, by such thirty-first day of January, an application for and a renewal license has not been made, the state board of equalization shall notify such delinquent license holder thereof, by registered mail, and if application is not made for a renewal license issued on or before the last day of February next ensuing, the former license shall lapse and become null and void.

Renewal fee.

Each such application for a renewal license shall be accompanied by a filing fee of fifty cents (50c) and by the license fee as prescribed in Sections five and six of this act.

Persons, firms, etc., obliged to pay license fee.

Section 5. Every person, firm, corporation, association, co-partnership or group opening, establishing, operating or maintaining one or more retail stores or mercantile establishments, within this State, under the same general management, supervision or ownership, where a stock of goods is maintained during any portion of the year, regardless of whether said stock is held by ownership, consignment, agency or any other means, shall pay the license fee hereinafter prescribed for the privilege of opening, establishing, operating or maintaining such stores or mercantile establishments, provided that the members of any group, association or consumer co-operative composed of independent units owning their own business and grouped or associated together by agreement or otherwise for the purpose of purchasing or selling merchandise or service for the mutual benefit of the members shall not be grouped for computing the license fee to be paid by such person, firm, corporation, association, or co-partnership or retailer under this act, but such units or members shall be taxed as individual units; and provided further that the term store shall not mean or include for the purpose of computing the license fee prescribed in this section the following types of business, but that they shall be licensed under the prescribed fees in Section six (6) of this act; gasoline filling stations and/or gasoline distributing plants where seventy-five per cent (75%) of the gross business is in petroleum products exclusively; or lumber yards where seventy-five per cent (75%) of the gross business is in building material and hardware exclusively; or grain elevators

Proviso, as to consumer cooperative groups.

Types of business not deemed a store within the meaning of this section.

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where seventy-five per cent (75%) of the gross business is dealing in grains and seeds exclusively; and those businesses in which the sale of goods, wares, and merchandise is less than twenty-five per cent (25%) of the gross business.

Amounts of license fees.

The license fee herein prescribed shall be paid annually, and shall be in addition to the filing fees prescribed in Sections Two (2) and Four (4) of this act.

The annual license fees herein prescribed shall be as follows:

1. Upon one store the annual license fee shall be five dollars ($5.00).

2. Upon the second store, the annual license fee shall be fifty dollars ($50.00).

3. Upon the third store, the annual license fee shall be one hundred dollars ($100.00).

4. Upon the fourth store, the annual license fee shall be one hundred and fifty dollars ($150.00).

5. Upon the fifth store, and on each store in excess of five stores, the annual license fee shall be two hundred dollars ($200.00).

Businesses wherein the sale of goods is less than 25% of the gross business.

Section 6. Every person, firm, corporation, association, co-partnership or group opening, establishing, operating or maintaining one or more stores or mercantile establishments within this State under the same general management, supervision or ownership, where a stock of goods is maintained during any portion of the year, regardless of whether said stock is held by ownership, consignment, agency or any other means, who deal in petroleum products, building materials, and hardware and grain elevators, and those businesses in which the sale of goods, wares and merchandise is less than 25% of the gross business, subject to the following restrictions: Gasoline filling stations and/or gasoline distributing plants where 75% of the gross business is in petroleum products exclusively; those businesses in which the sale of goods, wares and merchandise is less than 25% of the gross business; lumber yards where 75% of the gross business is in building materials and hardware exclusively; grain elevators where 75% of the gross business is in grains and seeds exclusively, shall pay the annual license fee prescribed in this section for the privilege of opening,

Restrictions applicable to certain types of business.

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establishing, operating or maintaining such stores or mercantile establishments, but shall not be required to pay the license fees prescribed in Section 5 of this act.

Amounts of license fees.

The annual license fee herein prescribed shall be paid annually, and shall be in addition to the filing fees prescribed in Sections two (2) and four (4) of this act.

The annual license fees herein prescribed shall be as follows:

1. Upon one store the annual license fee shall be five dollars ($5.00).

2. Upon the second store, the annual license fee shall be seven dollars and fifty cents ($7.50).

3. Upon the third store, the annual license fee shall be fifteen dollars ($15.00).

4. Upon the fourth store, the annual license fee shall be twenty-two dollars and fifty cents ($22.50).

5. Upon the fifth store, the annual license fee shall be thirty dollars ($30.00).

6. Upon the sixth store, and each store in excess of six, the annual license fee shall be thirty-seven dollars and fifty cents ($37.50).

7. Wholesale stores shall be taxed in all cases as individual units at the rate of thirty-seven dollars and fifty cents ($37.50) per unit, regardless of ownership.

Part-year licenses.

Section 7. Each and every license issued prior to the first day of July of any year shall be charged for at the full rate, and each and every license on or after the first day of July of any year shall be charged for at one-half of the full rate, as prescribed for in Sections five (5) and six (6) of this act.

Persons, firms, etc., to which act applies.

Section 8. The provisions of this act shall be construed to apply to every person, firm, corporation, co-partnership or group, either domestic or foreign, which is controlled or held in any degree with others by majority stock ownership or ultimately controlled or directed by one management or association of ultimate management.

"Store."

Section 9. The term "store" as used in this act shall be construed to mean and include any store or stores or any mercantile establishment or establishments which

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are owned, operated, maintained or controlled by the same person, firm, corporation, association, co-partnership, or group, either domestic or foreign, in which goods, wares or merchandise of any kind are sold, either at retail or wholesale; and subject to the classification contained in Sections five (5) and six (6) of this act.

Penalty.

Section 10. Any person, firm, corporation, association, co-partnership or group who shall violate any of the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum of not less than twenty-five dollars ($25.00) nor more than two hundred dollars ($200.00), and each and every day that such violation shall continue shall constitute a separate and distinct offense.

Employment of assistance to administer act.

Disposition of money collected hereunder.

Section 11. The state board of equalization is hereby authorized to employ such clerical and field assistance as may be found necessary to carry out and to administer the provisions of this act. All money collected under the provisions of this act, less the expenses incurred in the administration of this act, shall be paid into the state treasury, to the credit of the general fund.

Validity of act.

Section 12. The provisions of this act are several, and if any section, provision, word or clause of this act shall be declared invalid or unconstitutional for any reason, such invalidity or unconstitutionality shall not affect or impair any of the remaining portions of this act. It is hereby declared as the intent of the legislative assembly of Montana that this act would have been adopted had such invalid portion not been included herein.

Repealing clause.

Section 13. All acts and parts of acts in conflict herewith are hereby repealed, and expressly repealing Chapter 155 Session Laws of 1933.

Effective date.

Section 14. This act shall be in full force and effect from and after January 1, 1938.

Approved March 18, 1937.

CHAPTER 200

An Act Relating to Hours of Work of Members of Paid Fire Departments of Cities of the Second Class, Pro-

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viding a Minimum Compensation for Members of Paid Fire Departments of Cities of the Second Class, Providing Penalties for a Violation Thereof, and Repealing All Acts or Parts of Acts in Conflict Therewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Hours of work by members of fire departments of cities of second class.

Section 1. The city council, city commission, or other governing body in cities of the second class, shall divide all members of the paid fire department into platoons of three shifts. The members of each shift shall not be required to work or be on duty more than eight (8) hours of each consecutive twenty-four hours, except in the event of a conflagration or other similar emergency when such members or any of them may be required to serve so long as the necessity therefor exists. Each member shall be entitled to at least one (1) day off duty out of each eight-day period of service without loss of compensation.

Minimum wage.

Section 2. There shall be paid to each member of the fire department of cities of the second class of the State of Montana a minimum wage for a daily service of eight (8) consecutive hours work of at least one hundred and forty and no/100 dollars ($140.00) per month for the first year of service, and thereafter of at least one hundred and forty and no/100 dollars ($140.00) per month, plus one dollar ($1.00) per month for each additional year of service up to and including the tenth year of such additional service, it being hereby expressly declared the purpose and intent of this act to fix the minimum wage of members of the fire department of said cities of the second class of the State of Montana at the sum of one hundred and forty and no/100 dollars ($140.00) per month and to increase said compensation annually thereafter at the rate of not less than one dollar ($1.00) per month for each additional year of active service after the first year thereafter rendered by them, not exceeding ten (10) years of such service after the first year. Provided, that a new fireman, that is a fireman when he is first employed, shall for the first six months (6) following his employment be on probation during which time his pay shall be one hundred ten dollars ($110.00) per month, thereafter, if he is still employed, his salary shall be one hundred forty dollars ($140.00) per month, plus one dollar ($1.00) per month for each additional

Compensation of members during probation period.

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year of service up to and including the tenth year of such additional service.

Penalty.

Section 3. **Violation of This Act Shall Be Deemed a Misdemeanor; Penalty.** Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than one hundred ($100.00) dollars, or more than six hundred dollars ($600.00), or by imprisonment in the county jail for not less than thirty (30) days or more than seven (7) months, or by both such fine and imprisonment.

Validity of act.

Section 4. If any clause, sentence, section, paragraph or part of this act shall for any reason, be adjudged by any court of competent jurisdiction to be invalid or inoperative, such judgment shall not affect, impair or invalidate the remainder of this act but shall be confined in its operation to the clause, sentence, section, paragraph or part directly adjudged to be invalid and inoperative.

Repealing clause.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 6. This act shall be in full force and effect from and after the date of its passage and approval.

Approved March 18, 1937.

CHAPTER 201

An Act Establishing a State Temperance Commission, for the Purpose of Promoting Temperance and Decreasing the Intemperate Use of Alcoholic Liquors: Preventing the Use Thereof by Minors; Creating a Special State Fund to Be Derived Only From the Liquor Traffic to Cover the Cost of Administering This Act; and Making an Appropriation From the General Fund to Meet Expenses Incident to Administration of the Act Before Funds Are Available in the Treasury to the Credit of the "Temperance Commission Fund" Herein Established, and Providing for the Repayment of Such Appropriation to the General Fund When Moneys Are Available in the State Treasury to the Credit of the "Temperance Commission Fund" Herein Provided for.

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Be it enacted by the Legislative Assembly of the State of Montana:

State temperance commission established.

Section 1. That there shall be established in the State of Montana, a commission to be known as the state temperance commission, the same to be composed of the secretary of the bureau of child and animal protection, the superintendent of public instruction, and the secretary of the state board of health, all of whom shall serve ex-officio as members of such commission without additional compensation.

Designation of president.

Place of business.

Section 2. The secretary of the bureau of child and animal protection shall be the president of such commission, and its principal place of business shall be at the capitol building, in the City of Helena, Montana.

Secretary.

Salary of.

Section 3. The said commission shall be authorized, and is hereby empowered, to appoint and employ a secretary, who shall hold office at the pleasure of the board, and receive a salary of $1,800.00 a year, to be paid from the fund hereinafter provided.

Purpose of commission.

Section 4. It is hereby declared to be the purpose of the establishment of such commission, to prevent the intemperate use of alcoholic beverages in the State of Montana, and to disseminate information by newspaper advertising, by the distribution of literature, radio speeches, and lectures calculated to bring about temperance in the use of alcoholic liquors by the people of the State of Montana, and particularly intended to educate the minor children of the State with respect to the evils incident to the use of alcoholic stimulants, and the injury occasioned to the body and mind of individuals, and to society, incident to intemperance.

Duty of commission as to sale of liquor to minors.

Declaration of public policy.

Section 5. In the administration of this act, it is made the duty of the said commission to make such efforts and endeavor as may appear best calculated to prevent the sale of alcoholic liquors or alcoholic beverages to minors in violation of the law, and to prevent the use thereof by minors; it being hereby declared to be the public policy of this State that the use of alcoholic liquors by minors is injurious to both body and mind and detrimental to society, and that effective efforts should be made to enforce the law prohibiting the sale, or gift, of alcoholic liquors to minors.

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Cooperation with attorney general, county attorneys, etc.

Section 6. Upon said temperance commission is conferred the power and it is made its duty to co-operate with and assist the attorney general, all county attorneys, sheriffs and peace officers in the rigid enforcement of all laws prohibiting the sale of liquor to minors and the punishment of offenders. It is vested with power and authority to make independent investigations of such law violations and to prefer charges in any court having jurisdiction against persons accused of violating the law, and it is hereby made the duty of county attorneys to prosecute all such charges by it preferred.

Investigations of law violations.

"Temperance commission fund" created.

Section 7. For efficiently carrying out the purpose of this act and enabling the said commission to administer the law in the interest of society, upon the liquor traffic is imposed the burden; and, therefore, there shall be, and is, hereby created a special state fund to be known and designated as the "temperance commission fund", the same to be derived wholly and exclusively by the setting aside from year to year of one per cent of the net profits obtained by the State of Montana in the sale of alcoholic liquors through the state liquor stores to an amount not to exceed five thousand dollars ($5,000.00) in any one year, which fund shall be kept and held in the state treasury and be devoted exclusively for the purpose of administering this act, which must be computed by the state liquor control board and by it paid to the state treasurer on the 31st day of December of each year.

Administration of said fund.

Section 8. Such fund shall be kept and carried on the books of the state treasurer of the State of Montana under the designation of "temperance commission fund", and all claims incurred by the commission or through its authority in the administration of this act, shall be paid solely and exclusively from such fund upon claims duly presented and approved by the state board of examiners.

Appropriation.

Section 9. That there shall be and is hereby appropriated from moneys in the state treasury to the credit of the general fund, not otherwise appropriated, the sum of five thousand dollars in order to meet the expenses of the commission in organization and the administration of this act before funds are available in the state treasury to the credit of the "temperance commission fund"; and the said commission is hereby directed and

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Same to be paid back.

required to pay back to the state treasury for credit of the general fund the amount of such appropriation so soon as funds in the state treasury to the credit of the "temperance commission fund" have accumulated in sufficient amount to permit without crippling the said commission in the administration of this act.

Repealing clause.

Section 10. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 11. This act shall be in full force and effect from and after its passage and approval.

Approved March 18, 1937.

CHAPTER 202

An Act Providing the Method for Computing Certain Deductions Allowable on Mine Taxes in the Production of Petroleum and Natural Gas in Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Computing deductions allowable on tax on petroleum and natural gas production.

Section 1. The state board of equalization in computing the deductions allowable for expenditures under Section 2090 of the Revised Codes of the State of Montana on petroleum and natural gas production, shall compute and allow deductions for any such expenditures made prior to the year for which any such statement is made, where the same have not been previously allowed in computing such net proceeds under the laws of the State of Montana; provided that no such deductions shall be allowed on account of any expenditures made during any calendar year prior to the year 1936; and provided further that no deductions shall be allowed for expenditures except for the calendar year for which the computation is made and the calendar year preceding the year for which the computation is made.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 18, 1937.

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CHAPTER 203

An Act to Amend Section 678 of the Revised Codes of Montana of 1935, Relating to the Preparation and Form of the Printing of Ballots on Elections and to Repeal All Laws in Conflict Therewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 678 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

County clerk to provide printed ballots.

"Section 678. Except as in this chapter otherwise provided, it is the duty of the county clerk of each county to provide printed ballots for every election for public officers in which electors or any of the electors within the county participate, including non-partisan judiciary ballots for the election of judges of the supreme and district courts, and to cause to be printed in the ballot the name of every candidate whose name has been certified to or filed with the county clerk in the manner provided for in this chapter. The names of all candidates shall be arranged alphabetically according to surnames, under the appropriate title of the respective offices, and under the proper party designation upon the party ticket, except as hereinafter provided. When two or more persons are candidates for election for the same office, it shall be the duty of the county clerk in each of the counties of the state to divide the ballot forms provided by the law for the county, into sets so as to provide a substantial rotation of the names of the respective candidates as follows:

Arrangement of names of candidates.

Rotation of names.

He shall divide the whole number of ballot forms for the county into sets equal in number to the greatest number of candidates for the election to any office, and he shall so arrange said sets that the names of the candidates shall, beginning with a form arranged in alphabetical order, be rotated by removing one name from the top of the list for each election or office and placing said name or number at the bottom of the list for each successive set of ballot forms; provided, that no more than one of said sets shall be used in printing the ballot for use in any one precinct, and that all ballots furnished for use in any precinct shall be of one form and identical in every respect.

Proviso, that all ballots in any precinct shall be identical.

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Other ballots prohibited.

Ballots other than those printed by the respective county clerks according to the provisions of this chapter must not be cast or counted in any election. Any elector may write or paste on his ballot the name of any person for whom he desires to vote for any office, and must mark the same as provided in Section 696, and such vote must be counted the same as if printed upon the ballot and marked by the voter, and any voter may take with him into the polling place any printed or written memorandum or paper to assist him in marking or preparing his ballot except as otherwise provided in this chapter."

Elector may write in name.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 19, 1937.

CHAPTER 204

An Act Regulating Dealers Engaged in Buying, Selling Hay; Providing Licenses, Amount Thereof; Providing for Bonds and Amount Thereof; Providing for Inspection; Providing for Repeal of Sections 4230 and 3608.1, Revised Codes of Montana, 1935, and All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Dealing in hay without a license prohibited.

Section 1. It shall be unlawful for any person, firm or corporation to buy, or offer to buy, for the purpose of resale any hay, unless he shall have first obtained from the commissioner of agriculture, labor and industry of the State of Montana, a license permitting such person, firm or corporation to engage in the business of buying and selling hay at wholesale within the State of Montana.

Bond to be filed.

Section 2. No person, firm or corporation shall be eligible to receive or obtain such license unless he shall first file with such commissioner a bond running to the State of Montana for the benefit of the growers of hay, dealing or who may deal with such licensee, conditioned on the faithful performance by such licensee of all con-

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tracts made by him for the purchase of hay from the growers thereof.

Penal sum of bond.

Section 3. The bond provided for in the preceding section shall be in such penal sum as said commissioner shall determine, based upon the estimated amount of business to be done by the licensee, during the year for which said license is to be issued; provided, however, that said bond shall be in a sum of not less than one thousand dollars ($1000.00).

License.

Section 4. The license herein provided for shall be an annual license and shall be valid for the calendar year in which issued, and shall be issued only upon the payment of the sum or fee of fifteen dollars ($15.00).

Fee.

Rules and regulations by commissioner of agriculture, labor and industry.

Section 5. The commissioner of agriculture, labor and industry shall have the right, and it shall be his duty, to make reasonable rules and regulations with reference to the form of application, the terms of the bond, and the form of license hereunder, as convenience and good practice may require, and for the enforcement of this act.

False representation as to quality of hay.

Section 6. It shall be unlawful for any person, firm or corporation to advertise, represent, or hold out any hay for sale as of the quality or as meeting the requirements of Section 4229, Revised Codes of Montana, 1935, unless such hay shall actually meet and conform to the requirements thereof; provided that it shall be optional for any grower of hay or any dealer therein to cause to be inspected or graded any hay which he may sell or offer for sale, or which he may buy or offer to buy.

Sec. 2443.3, R. C. 1935, not applicable to hay.

Section 7. Section 2443.3 of the Revised Codes of Montana, 1935, shall not apply nor be construed to apply to hay.

Repealing clause.

Section 8. Sections 4230 and 3608.1 of the Revised Codes of Montana, 1935, and all acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 9. This act shall be in full force and effect from and after its passage and approval.

Approved March 19, 1937.

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APPROPRIATIONS,

MEMORIALS AND RESOLUTIONS

ENACTED BY THE

Twenty-fifth Legislative Assembly

STATE OF MONTANA

1937

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APPROPRIATIONS, MEMORIALS AND RESOLUTIONS

HOUSE BILL NO. 1

An Act to Appropriate Money for the Payment of Mileage and Per Diem to the Members of the Twenty-fifth Legislative Assembly and for the Payment of Per Diem to the Officers and Attaches and for Incidental Expenses of the Twenty-fifth Legislative Assembly of the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or so much thereof as may be necessary, be, and the same are hereby appropriated, out of any money in the state treasury, not otherwise appropriated, for the objects and purposes hereinafter expressed, but for no other:

For the payment of mileage and per diem to the members of the Twenty-fifth Legislative Assembly of the State of Montana, one hundred three thousand dollars....$103,000.00

For the payment of per diem to the officers and attaches of the Twenty-fifth Legislative Assembly of the State of Montana, forty-two thousand dollars.....$ 42,000.00

For the payment of incidental expenses of the Twenty-fifth Legislative Assembly of the State of Montana, twenty thousand dollars .....$ 20,000.00

Section 2. Any amount or amounts remaining in any appropriation for the Twenty-fifth Legislative Assembly may be transferred to supplement the amount or amounts remaining in any other appropriations for the Twenty-fifth Legislative Assembly; provided, that the aggregate amount of all such appropriations shall be neither increased or decreased.

Section 3. Appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved January 7, 1937.

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HOUSE BILL NO. 146

An Act to Appropriate Money for the Operation, Maintenance and Other Purposes, as Designated Herein, for Certain of the State's Institutions, for the Period Beginning July 1, 1937 Ending June 30, 1939.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purpose of this act unless otherwise required by the context:

(1) The term "salaries" means the compensation paid in consideration of services rendered, to all regularly elected or appointed officers or employees whose duties are of a continuous nature. It does not mean wages or compensation paid, in consideration of services rendered to temporary employees and/or persons appointed or hired for a period of less than one month, the payment of which is hereby made a proper charge from funds appropriated for "operation".

(2) The term "capital", unless otherwise herein designated or defined, means all articles, fixtures and goods of a permanent nature, but in no event shall the term "capital" mean buildings or lands unless specifically defined herein.

(3) The term "repairs" means the amounts to be paid for the repairing of any capital asset, including buildings or lands.

(4) The term "replacement" means the amounts to be paid for the replacing of any capital asset as defined in Paragraph (2) above, by the purchase of a new one to take its place by reason of the original asset being worn out or broken, but in no instance shall it include the purchase of any article to replace another if the original article is retained and remains in use.

(5) The term "operation" means all other expenditures which are necessary for the operation of the institution to which the appropriation applies, including wages of employees paid to temporary employees for work not considered of a continuous nature.

(6) The term "salaries and expenses" means any expense, including salaries, capital, repairs and replacements and other operation, as defined above.

(7) The term "expense" means any expense defined above, with the exception of salaries.

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(8) When reference is made herein to any chapter or section of the laws of Montana, said reference shall include any and all laws amendatory thereto.

Section 2. That the following sums or so much thereof as may be found necessary, be, and the same are hereby appropriated out of any moneys in the state treasury, and from special funds enumerated herein, not otherwise appropriated, for the objects and purposes hereinafter expressed, for the period beginning July 1, 1937, and ending June 30, 1938.

STATE SCHOOL FOR DEAF AND BLIND
FROM THE GENERAL FUND

For salaries and expenses, fifty thousand dollars.....$ 50,000.00

In addition thereto there is hereby appropriated all earnings, all income from land grants and all other funds, which may accrue to said institution for salaries and expenses.

STATE TRAINING SCHOOL
FROM THE GENERAL FUND

For salaries and expenses, ninety-five thousand dollars....$ 95,000.00

In addition thereto there is hereby appropriated all earnings and all other funds which may accrue to said institution.

STATE ORPHANS' HOME
FROM THE GENERAL FUND

For salaries and expenses, eighty-two thousand, five hundred dollars .....$ 82,500.00

In addition thereto there is hereby appropriated all earnings and all other funds which may accrue to said institution.

STATE INDUSTRIAL SCHOOL
FROM THE GENERAL FUND

For salaries and expenses, fifty-four thousand dollars....$ 54,000.00
Copper steam pipes, five thousand dollars .....$ 5,000.00

In addition thereto there is hereby appropriated all earning, all income from land grants and all other funds which may accrue to said institution.

STATE VOCATIONAL SCHOOL FOR GIRLS
FROM THE GENERAL FUND

For salaries and expenses, twenty-seven thousand, five hundred dollars .....$ 27,500.00
For repairs and replacements .....$ 2,500.00

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In addition thereto there is hereby appropriated all earnings and all other funds which may accrue to said institution.

STATE PRISON
FROM THE GENERAL FUND

For salaries and expenses, one hundred fifty thousand dollars $150,000.00

In addition thereto there is hereby appropriated all earnings and all other funds which may accrue to said institution.

LICENSE PLATE FACTORY
FROM THE MOTOR VEHICLE FUND

For salaries and expenses, so much thereof as may be necessary to pay lawful claims in the making of license plates as provided in Section 11573.5 of the Revised Codes of Montana, 1935.

STATE GARMENT FACTORY
FROM THE STATE GARMENT FACTORY REVOLVING FUND

For salaries and expenses, so much thereof as may be necessary to pay lawful claims, as provided in Section 12447.2 of the Revised Codes of Montana, 1935.

STATE HOSPITAL
FROM THE GENERAL FUND

For salaries and expenses, three hundred fifty thousand dollars $350,000.00

In addition thereto there is hereby appropriated all earnings and all other funds which may accrue to said institution.

STATE TUBERCULOSIS SANITARIUM
FROM THE GENERAL FUND

For salaries and expenses, ninety-eight thousand, five hundred dollars ..... $ 98,500.00

In addition thereto there is hereby appropriated all earnings and all other funds which may accrue to said institution.

STATE SOLDIERS' HOME
FROM THE GENERAL FUND

For salaries and expenses, thirty-six thousand, five hundred dollars ..... $ 36,500.00

In addition thereto there is hereby appropriated all earnings, all federal moneys and all other funds which may accrue to said institution.

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Section 3. That the following sums or so much thereof as may be found necessary, be, and the same are hereby appropriated out of any moneys in the state treasury, and from special funds enumerated herein, not otherwise appropriated, for the objects and purposes hereinafter expressed, for the period beginning July 1, 1938, and ending June 30, 1939.

STATE SCHOOL FOR DEAF AND BLIND
FROM THE GENERAL FUND

For salaries and expenses, fifty thousand dollars.....$ 50,000.00

In addition thereto there is hereby appropriated all earnings, all income from land grants and all other funds, which may accrue to said institution for salaries and expenses.

STATE TRAINING SCHOOL
FROM THE GENERAL FUND

For salaries and expenses, ninety-five thousand dollars .....$ 95,000.00

In addition thereto there is hereby appropriated all earnings and all other funds which may accrue to said institution.

STATE ORPHANS' HOME
FROM THE GENERAL FUND

For salaries and expenses, eighty-two thousand, five hundred dollars .....$ 82,500.00

In addition thereto there is hereby appropriated all earnings and all other funds which may accrue to said institution.

STATE INDUSTRIAL SCHOOL
FROM THE GENERAL FUND

For salaries and expenses, fifty-four thousand dollars..$ 54,000.00

In addition thereto there is hereby appropriated all earnings, all income from land grants and all other funds which may accrue to said institution.

STATE VOCATIONAL SCHOOL FOR GIRLS
FROM THE GENERAL FUND

For salaries and expenses, thirty thousand dollars.....$ 30,000.00

In addition thereto there is hereby appropriated all earnings and all other funds which may accrue to said institution.

STATE PRISON
FROM THE GENERAL FUND

For salaries and expenses, one hundred fifty thousand dollars $150,000.00

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In addition thereto there is hereby appropriated all earnings and all other funds which may accrue to said institution.

LICENSE PLATE FACTORY
FROM THE MOTOR VEHICLE FUND

For salaries and expenses, so much thereof as may be necessary to pay lawful claims in the making of license plates as provided in Section 11573.5 of the Revised Codes of Montana, 1935.

STATE GARMENT FACTORY
FROM THE STATE GARMENT FACTORY
REVOLVING FUND

For salaries and expenses, so much thereof as may be necessary to pay lawful claims, as provided in Section 12447.2 of the Revised Codes of Montana, 1935.

STATE HOSPITAL
FROM THE GENERAL FUND

For salaries and expenses, three hundred fifty thousand dollars $350,000.00

In addition thereto there is hereby appropriated all earnings and all other funds which may accrue to said institution.

STATE TUBERCULOSIS SANITARIUM
FROM THE GENERAL FUND

For salaries and expenses, ninety-eight thousand, five hundred dollars ..... $ 98,500.00

In addition thereto there is hereby appropriated all earnings and all other funds which may accrue to said institution.

STATE SOLDIERS' HOME
FROM THE GENERAL FUND

For salaries and expenses, thirty-six thousand, five hundred dollars ..... $ 36,500.00

In addition thereto there is hereby appropriated all earnings, all federal moneys and all other funds which may accrue to said institution.

Section 4. Provided further, that all appropriations contained herein shall be used for the purposes designated and no other, and the definitions given in Section 1 of this act shall govern all appropriations.

Section 5. Appropriations contained herein shall not be used for travel to conventions, teachers meetings, association meetings or

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gatherings of like character, wherein the said meetings are held outside of the State of Montana except by special permission of the state board of examiners who may deem it necessary for attendance on such meetings. The state board of examiners shall spread on their minutes the reasons for their permission.

Section 6. It is further provided that wherein departments or institutions have specific appropriations from sources other than the general fund or university millage fund, excepting trust funds wherein a specific law governs, the money from such other sources shall be used, when available, before using the appropriations from the general fund or university millage fund.

Section 7. Appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Approved March 15, 1937.

HOUSE BILL NO. 168

An Act to Appropriate Money for the Operation and Maintenance and Other Purposes as Designated Herein for the Several Units of the Greater University of Montana, Known as the State University, Agricultural College, Experiment Station and Substations, Extension Service, School of Mines, State Normal College, Eastern Montana Normal School, and Northern Montana College and for Student Fare Refunds for the Period Beginning July 1, 1937 and Ending June 30, 1939.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purpose of this act unless otherwise required by the context:

(1) The term "salaries" means the compensation paid in consideration of services rendered to all regularly elected or appointed officers or employees whose duties are of a continuous nature. It does not mean wages or compensation paid in consideration of services rendered to temporary employees and/or persons appointed or hired for a period of less than one month, the payment of which is hereby made a proper charge from funds appropriated for "operation".

(2) The term "capital", unless otherwise herein designated or defined, means all articles, fixtures and goods of a permanent

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nature, but in no event shall the term "capital" mean buildings or lands unless specifically defined herein.

(3) The term "repairs" means the amounts to be paid for the repairing of any capital asset, including buildings or lands.

(4) The term "replacements" means the amounts to be paid for the replacing of any capital asset as defined in Paragraph (2) above, by the purchase of a new one to take its place by reason of the original asset being worn out or broken, but in no instance shall it include the purchase of any article to replace another if the original article is retained and remains in use.

(5) The term "operation" means all other expenditures which are necessary for the operation of the department, board, bureau, commission or institution to which the appropriation applies, including wages of employees paid to temporary employees for work not considered of a continuous nature.

(6) The term "salaries and expenses" means any expense, including salaries, capital, repairs and replacements and other operation, as defined above.

(7) The term "expense" means any expense defined above, with the exception of salaries.

(8) When referenc is made therein to any chapter or section of the laws of Montana, said reference shall include any and all laws amendatory thereto.

Section 2. That the following sums or so much thereof as may be found necessary, be, and the same are hereby appropriated out of any moneys in the state treasury, and from special funds enumerated herein, not otherwise appropriated for the objects and purposes hereinafter expressed, for the period beginning July 1, 1937 and ending June 30, 1938.

STATE UNIVERSITY
FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, two hundred fifty-eight thousand two hundred fifty dollars $258,250.00

For salaries for additional instructors, twenty-six thousand two hundred fifty dollars ..... $ 26,250.00

In addition to the above appropriation, there is hereby appropriated for the support and maintenance of the state university, all earnings of said institution, all income from land grants and endowments and other funds which pertain to said institution.

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STATE AGRICULTURAL COLLEGE
FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, one hundred fifty-six thousand five hundred dollars $156,500.00

For salaries for additional instructors, one thousand seven hundred fifty dollars ..... $ 1,750.00

For painting and rewiring of buildings, four thousand dollars ..... $ 4,000.00

In addition to the above appropriation, there is hereby appropriated for the support and maintenance of the state agricultural college, all earnings of said institution, all income from land grants and endowments and federal funds and all other funds which pertain to said institution.

EXPERIMENT STATION
FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, forty-five thousand dollars.. $ 45,000.00

For experimental sub-stations for salaries and expenses for each of the following branch stations:

Grain laboratory, five thousand dollars ..... $ 5,000.00

Horticulture branch station, three thousand dollars..... $ 3,000.00

Huntley branch station, one thousand dollars..... $ 1,000.00

Judith Basin branch station, six thousand dollars..... $ 6,000.00

North Montana branch station, eleven thousand dollars ..... $ 11,000.00

Fort Keough livestock range station, one thousand dollars ..... $ 1,000.00

In addition to the above appropriations there is hereby appropriated for the experimental station and sub-stations, all earnings which may accrue to the different departments contained herein and all federal funds, of said institution.

EXTENSION SERVICE
FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, forty-eight thousand five hundred dollars ..... $ 48,500.00

In addition to the above appropriation there is hereby appropriated for the extension service all income that may accrue to this department from all sources, including federal money.

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STATE SCHOOL OF MINES
FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, forty-eight thousand five hundred dollars ..... $ 48,500.00

BUREAU OF MINES AND GEOLOGY

For salaries and expenses, fourteen thousand eight hundred seventy-five dollars ..... $ 14,875.00

In addition to the above appropriation, there is hereby appropriated all earnings of said institution, all income from land grants and endowments and all other funds of said School of Mines.

STATE NORMAL COLLEGE
FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, sixty-six thousand dollars.... $ 66,000.00

In addition to the above appropriation there is hereby appropriated all earnings of said institution, one-half (½) of all income from land grants, and all endowments, and all other funds of said normal college.

EASTERN MONTANA NORMAL SCHOOL
FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, fifty-four thousand seven hundred fifty dollars ..... $ 54,750.00

In addition to the above appropriation there is hereby appropriated all earnings of said institution, one-half (½) of all income from land grants and all other funds of said institution.

NORTHERN MONTANA COLLEGE
FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, fifty-nine thousand dollars.. $ 59,000.00

In addition to the above appropriation there is hereby appropriated all earnings of said institution and all other funds which pertain to said institution.

STUDENT RAILROAD REFUNDS
FROM THE UNIVERSITY MILLAGE FUND

To equalize the traveling fare of students in attendance upon the institutions of the Greater University of Montana, two thousand dollars ..... $ 2,000.00

Section 3. That the following sums or so much thereof as may be found necessary, be, and the same are hereby appropriated out of any moneys in the state treasury, and from special funds enu-

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merated herein, not otherwise appropriated for the objects and purposes hereinafter expressed, for the period beginning July 1, 1938 and ending June 30, 1939.

STATE UNIVERSITY
FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, two hundred fifty-eight thousand two hundred fifty dollars $258,250.00

For salaries for additional instructors, twenty-six thousand two hundred fifty dollars ..... $ 26,250.00

In addition to the above appropriation, there is hereby appropriated for the support and maintenance of the state university, all earnings of said institution, all income from land grants and endowments and other funds which pertain to said institution.

STATE AGRICULTURAL COLLEGE
FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, one hundred fifty-six thousand five hundred dollars $156,500.00

For salaries for additional instructors, one thousand seven hundred fifty dollars ..... $ 1,750.00

In addition to the above appropriation, there is hereby appropriated for the support and maintenance of the state agricultural college, all earnings of said institution, all income from land grants and endowments and federal funds and all other funds which pertain to said institution.

EXPERIMENT STATION
FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, forty-five thousand dollars.. $ 45,000.00

For experimental sub-stations for salaries and expenses for each of the following branch stations:

Grain laboratory, five thousand dollars ..... $ 5,000.00

Horticulture branch station, three thousand dollars..... $ 3,000.00

Huntley branch station, one thousand dollars..... $ 1,000.00

Judith Basin branch station, six thousand dollars..... $ 6,000.00

North Montana branch station, eleven thousand dollars ..... $ 11,000.00

Fort Keough livestock range station, one thousand dollars ..... $ 1,000.00

In addition to the above appropriations there is hereby appropriated for the experimental station and sub-stations, all earnings

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which may accrue to the different departments contained herein and all federal funds, of said institution.

EXTENSION SERVICE
FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, forty-eight thousand five hundred dollars ..... $ 48,500.00

In addition to the above appropriation there is hereby appropriated for the extension service all income that may accrue to this department from all sources, including federal money.

STATE SCHOOL OF MINES
FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, fifty thousand dollars..... $ 50,000.00

BUREAU OF MINES AND GEOLOGY

For salaries and expenses, fourteen thousand eight hundred seventy-five dollars ..... $ 14,875.00

In addition to the above appropriation, there is hereby appropriated all earnings of said institution, all income from land grants and endowments and all other funds of said School of Mines.

STATE NORMAL COLLEGE
FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, sixty-six thousand dollars.... $ 66,000.00

In addition to the above appropriation there is hereby appropriated all earnings of said institution, one-half (½) of all income from land grants, and all endowments, and all other funds of said normal college.

EASTERN MONTANA NORMAL SCHOOL
FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, fifty-four thousand seven hundred fifty dollars ..... $ 54,750.00

In addition to the above appropriation there is hereby appropriated all earnings of said institution, one-half (½) of all income from land grants and all other funds of said institution.

NORTHERN MONTANA COLLEGE
FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, fifty-nine thousand dollars.. $ 59,000.00

In addition to the above appropriation there is hereby appropriated all earnings of said institution and all other funds which pertain to said institution.

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STUDENT RAILROAD REFUNDS
FROM THE UNIVERSITY MILLAGE FUND

To equalize the traveling fare of students in attendance upon the institutions of the Greater University of Montana, two thousand dollars ..... $ 2,000.00

Section 4. Provided further, that all appropriations contained herein shall be used for the purposes designated and no other, and the definitions given in Section 1 of this act shall govern all appropriations.

Section 5. It is further provided that wherein departments or institutions have specific appropriations from sources other than the general fund or university millage fund, excepting trust funds wherein a specific law governs, the money from such other sources shall be used, when available, before using the appropriations from the general fund or university millage fund.

Section 6. Appropriations contained herein shall not be used for travel to conventions, teachers' meetings, association meetings, or gatherings of like character, wherein said meetings are held outside the State of Montana, except by special permission of the state board of examiners. It is further provided that the appropriations contained herein shall not be used for salary and expenses of a chancellor for the Greater University of Montana.

Section 7. Appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Approved March 15, 1937.

HOUSE BILL NO. 201

An Act to Appropriate Money for the Purpose of Purchasing Equipment and Furnishings and Installing Same at the School for Deaf and Blind at Great Falls and for Moving Expenses and for Building a Field House.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums or so much thereof as may be necessary, be, and the same are hereby appropriated out of any money in the state treasury not otherwise appropriated for the objects and purposes hereinafter set forth.

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For the necessary equipment, furnishings and expenses and installing of same to complete the school for deaf and blind at Great Falls ..... $ 27,853.63

For expenses incurred for heat, light and miscellaneous items to June 30th, 1937 ..... $ 2,146.37

For expenses of moving equipment from Boulder to Great Falls and installing the same ..... $ 1,500.00

Section 2. The appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 15, 1937.

HOUSE BILL NO. 245

An Act Appropriating Money for the Full Payment of the Claim of Andy Briscoe as Compensation for Injuries Received While on Duty in the Service of the State of Montana as a Private in the Service Company, 163rd Infantry, Montana National Guard.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of six thousand five hundred sixty dollars ($6,560.00), be, and the same is hereby appropriated out of any monies in the state treasury not otherwise appropriated, for the purpose of paying the claim of Andy Briscoe for compensation for injuries received while on duty in the service of the State as a private in the service of company 163rd Infantry, Montana National Guard, at Helena, Montana, on the 10th day of June, 1925; the said compensation or pension being provided for by Section 1376 of the Revised Codes of Montana of 1935.

Section 2. The money herein appropriated by the provision of this act shall not be paid to the said Andy Briscoe until the said Andy Briscoe shall have filed with the state board of examiners of the State of Montana a full and complete release, satisfaction and discharge of the said claim, and of all further claims he has or might have against the State of Montana for such injuries, said release to be approved by the attorney general of the State of Montana. Upon the filing of such release, satisfaction and discharge, approval as herein provided with the state board of exam-

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iners, the state auditor is hereby authorized and directed to draw his warrant on the state treasurer payable to Andy Briscoe in the sum of six thousand five hundred sixty dollars ($6,560.00) as a full and complete settlement, satisfaction and discharge of his said claim for said injuries, it being intended hereby that this appropriation shall operate as a full and complete settlement of said claim, notwithstanding the provisions of Section 1376 of the Revised Codes of Montana, 1935.

Section 3. The appropriation herein above provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Approved March 15, 1937.

HOUSE BILL NO. 246

An Act to Appropriate Money for the Operation, Maintenance and Other Purposes as Designated Herein, for Certain State Departments and Offices for the Period Beginning July 1, 1937, and Ending June 30, 1939.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purpose of this act unless otherwise required by the context:

(1) The term "salaries" means the compensation paid in consideration of services rendered to all regularly elected or appointed officers or employees whose duties are of a continuous nature. It does not mean wages or compensation paid in consideration of services rendered to temporary employees and/or persons appointed or hired for a period of less than one (1) month, the payment of which is hereby made a proper charge from funds appropriated for "operation".

(2) The term "capital", unless otherwise herein designated or defined, means all articles, fixtures and goods of a permanent nature, but in no event shall the term "capital" mean buildings or lands unless specifically defined herein.

(3) The term "repairs" means the amounts to be paid for the repairing of any capital asset, including buildings or lands.

(4) The term "replacements" means the amounts to be paid for the replacing of any capital asset as defined in paragraph (2)

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above, by the purchase of a new one to take its place by reason of the original asset being worn out or broken, but in no instance shall it include the purchase of any article to replace another if the original article is retained and remains in use.

(5) The term "operation" means all other expenditures which are necessary for the operation of the department, board, bureau, commission or institution to which the appropriation applies, including wages of employees paid to temporary employees for work not considered of a continuous nature.

(6) The term "salaries and expenses" means any expense, including salaries, capital, repairs and replacements and other operation, as defined above.

(7) The term "expense" means any expense defined above, with the exception of salaries.

(8) When reference is made herein to any chapter or section of the laws of Montana, said reference shall include any and all laws amendatory thereto.

Section 2. That the following sums or so much thereof as may be found necessary, be, and the same are hereby appropriated out of any moneys in the state treasury, and from special funds enumerated herein, not otherwise appropriated, for the objects and purposes hereinafter expressed, for the period beginning July 1, 1937, and ending June 30, 1938.

GOVERNOR'S OFFICE
FROM THE GENERAL FUND

For salaries fixed by law, thirteen thousand five hundred dollars ..... $ 13,500.00

For salaries not fixed by law, twenty-seven hundred dollars ..... $ 2,700.00

For capital, repairs and replacements, two hundred dollars ..... $ 200.00

For operation, twenty-three hundred fifteen dollars.... $ 2,315.00

For requisitions, six thousand dollars ..... $ 6,000.00

For special investigation, twenty-five hundred dollars.. $ 2,500.00

GOVERNOR'S MANSION OR HOME
FROM THE GENERAL FUND

For salaries and expenses of the governor's mansion or home, four thousand fifty dollars ..... $ 4,050.00

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SECRETARY OF STATE

FROM THE GENERAL FUND

For salaries fixed by law, seventy-two hundred dollars ..... $ 7,200.00

For salaries not fixed by law, seventy-five hundred dollars ..... $ 7,500.00

For capital, repairs and replacements, two thousand dollars ..... $ 2,000.00

For operation, nineteen hundred dollars ..... $ 1,900.00

Election expenses: Publishing constitutional amendments, initiative and referendum measures, printing and binding election laws, one thousand dollars ..... $ 1,000.00

ATTORNEY GENERAL

FROM THE GENERAL FUND

For salaries fixed by law, nineteen thousand two hundred dollars ..... $ 19,200.00

For salaries not fixed by law, four thousand dollars.... $ 4,000.00

For capital, repairs and replacements, five hundred dollars ..... $ 500.00

For operation, and law enforcement expenses, five thousand dollars ..... $ 5,000.00

FARM LOAN DIVISION

FROM THE GENERAL FUND

For salaries not fixed by law and expenses, five thousand dollars ..... $ 5,000.00

STATE TREASURER

FROM THE GENERAL FUND

For salaries fixed by law, eighty-four hundred dollars.. $ 8,400.00

For salaries not fixed by law, seventy-five hundred dollars ..... $ 7,500.00

For capital, repairs and replacements, three hundred dollars ..... $ 300.00

For operation, two thousand dollars ..... $ 2,000.00

STATE AUDITOR

AUDITOR'S DIVISION

FROM THE GENERAL FUND

For salaries fixed by law, six thousand six hundred dollars ..... $ 6,600.00

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For salaries not fixed by law, five thousand four hundred dollars ..... $ 5,400.00

For capital, repairs and replacements, six hundred seventy-five dollars ..... $ 675.00

For operation, one thousand six hundred fifteen dollars ..... $ 1,615.00

FROM THE HIGHWAY FUND

For salaries not fixed by law, three thousand one hundred twenty dollars ..... $ 3,120.00

For operation and expense, three thousand dollars..... $ 3,000.00

INSURANCE DEPARTMENT
FROM THE GENERAL FUND

For salaries fixed by law, fifty-seven hundred dollars.. $ 5,700.00

For salaries not fixed by law, seventy-five hundred dollars ..... $ 7,500.00

For capital, repairs and replacements, five hundred dollars ..... $ 500.00

For operation, fifty-three hundred thirty-seven dollars ..... $ 5,337.00

INVESTMENT COMMISSIONER
FROM THE GENERAL FUND

For salaries not fixed by law, thirty-nine hundred dollars ..... $ 3,900.00

For operation, one thousand ninety dollars..... $ 1,090.00

FIRE MARSHAL
FROM THE FIRE MARSHAL'S FUND

As much as may be necessary, of all collections, to pay lawful claims as provided in Section 2761, Revised Codes of Montana, 1935.

FROM THE FIREMEN'S DISABILITY FUND

For the payment of the distribution of the firemen's disability fund, as provided in Section 5127 of the Revised Codes of Montana, 1935, an appropriation sufficient to meet the requirements as provided by law.

SUPERINTENDENT OF PUBLIC INSTRUCTION
FROM THE GENERAL FUND

For salaries fixed by law, sixty-one hundred dollars.... $ 6,100.00

For salaries not fixed by law, fifty-one hundred dollars ..... $ 5,100.00

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For capital, repairs and replacements, two hundred dollars ..... $ 200.00

For operation, fifty-two hundred dollars ..... $ 5,200.00

HIGH SCHOOL AND RURAL SCHOOL INSPECTORS
FROM THE GENERAL FUND

For salaries fixed by law, five thousand dollars..... $ 5,000.00

For operation, fourteen hundred dollars ..... $ 1,400.00

CERTIFICATION DEPARTMENT
FROM THE TEACHERS' CERTIFICATE FUND

All fees and collections are hereby appropriated to carry out the provisions of Section 1095, Revised Codes of Montana, 1935.

SUPREME COURT
FROM THE GENERAL FUND

For salaries fixed by law, forty-six thousand three hundred dollars ..... $ 46,300.00

For salaries not fixed by law, thirty-six hundred dollars ..... $ 3,600.00

For capital, repairs and replacements, two hundred and fifty dollars ..... $ 250.00

For operation, fifty-one hundred and thirty dollars.... $ 5,130.00

ATTORNEY'S LICENSING BOARD
FROM ATTORNEYS' LICENSING FUND

All fees and collections as may be found necessary in carrying out the provisions of Section 8936 to Section 8974 of the Revised Codes of Montana, 1935.

RAILROAD COMMISSION

RAILROAD AND PUBLIC SERVICE DIVISION
FROM THE GENERAL FUND

For salaries fixed by law, twelve thousand dollars..... $ 12,000.00

For salaries not fixed by law eighteen thousand nine hundred and sixty-seven dollars ..... $ 18,967.00

For capital, repairs and replacements, two hundred and fifty dollars ..... $ 250.00

For operation, four thousand dollars ..... $ 4,000.00

For pleading I. C. C. cases, five thousand dollars..... $ 5,000.00

Publishing of maps, fifteen hundred dollars ..... $ 1,500.00

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For salaries and expenses of electrical safety inspection, three thousand dollars ..... $ 3,000.00

MOTOR CARRIER DIVISION
FROM THE MOTOR CARRIER FUND

All fees and collections for salaries and expenses as provided for in Section 3847.17 Revised Codes of Montana, 1935.

GAS AND OIL WELL INSPECTION
FROM THE GENERAL FUND

For salaries not fixed by law, five thousand dollars..... $ 5,000.00

For capital, repairs and replacements, three hundred and fifty dollars ..... $ 350.00

For operation, three thousand dollars ..... $ 3,000.00

GASOLINE LICENSING DIVISION
FROM THE GASOLINE INSPECTION FUND

All collections are hereby appropriated for the use of this department in accordance with Section 3913.2, Revised Codes of Montana, 1935.

Section 3. That the following sums or so much thereof as may be found necessary, be, and the same are hereby appropriated out of any moneys in the state treasury, and from special funds enumerated herein, not otherwise appropriated, for the objects and purposes hereinafter expressed, for the period beginning July 1, 1938, and ending June 30, 1939.

GOVERNOR'S OFFICE
FROM THE GENERAL FUND

For salaries fixed by law, thirteen thousand five hundred dollars ..... $ 13,500.00

For salaries not fixed by law, twenty-seven hundred dollars ..... $ 2,700.00

For capital, repairs and replacements, two hundred dollars ..... $ 200.00

For operation, twenty-three hundred and fifteen dollars ..... $ 2,315.00

For requisitions, six thousand dollars ..... $ 6,000.00

GOVERNOR'S MANSION OR HOME
FROM THE GENERAL FUND

For salaries and expenses of the governor's mansion or home, four thousand and fifty dollars ..... $ 4,050.00

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SECRETARY OF STATE

FROM THE GENERAL FUND

For salaries fixed by law, seventy-two hundred dollars ..... $ 7,200.00

For salaries not fixed by law, sixty-three hundred dollars ..... $ 6,300.00

For capital, repairs and replacements, four hundred dollars ..... $ 400.00

For operation, two thousand dollars ..... $ 2,000.00

Election expenses: Publishing constitutional amendments, initiative and referendum measures, printing and binding election laws, fifteen thousand dollars ..... $ 15,000.00

ATTORNEY GENERAL

FROM THE GENERAL FUND

For salaries fixed by law, nineteen thousand, two hundred dollars ..... $ 19,200.00

For salaries not fixed by law, four thousand dollars ..... $ 4,000.00

For capital, repairs and replacements, three hundred dollars ..... $ 300.00

For operation, and law enforcement expenses, five thousand dollars ..... $ 5,000.00

FARM LOAN DIVISION

FROM THE GENERAL FUND

For salaries and expenses, five thousand dollars ..... $ 5,000.00

STATE TREASURER

FROM THE GENERAL FUND

For salaries fixed by law, eighty-four hundred dollars ..... $ 8,400.00

For salaries not fixed by law, seventy-five hundred dollars ..... $ 7,500.00

For capital, repairs and replacements, three hundred dollars ..... $ 300.00

For operation, two thousand dollars ..... $ 2,000.00

STATE AUDITOR

AUDITOR'S DIVISION

FROM THE GENERAL FUND

For salaries fixed by law, sixty-six hundred dollars ..... $ 6,600.00

For salaries not fixed by law, fifty-four hundred dollars ..... $ 5,400.00

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For capital, repairs and replacements, five hundred dollars ..... $ 500.00

For operation, sixteen hundred and fifteen dollars..... $ 1,615.00

FROM THE HIGHWAY FUND

For salaries not fixed by law, thirty-one hundred and twenty dollars ..... $ 3,120.00

For operation and expense, three thousand dollars..... $ 3,000.00

INSURANCE DEPARTMENT
FROM THE GENERAL FUND

For salaries fixed by law, fifty-seven hundred dollars.. $ 5,700.00

For salaries not fixed by law, seventy-five hundred dollars ..... $ 7,500.00

For capital, repairs and replacements, three hundred dollars ..... $ 300.00

For operation, fifty-three hundred and thirty-seven dollars ..... $ 5,337.00

INVESTMENT COMMISSIONER
FROM THE GENERAL FUND

For salaries not fixed by law, thirty-nine hundred dollars ..... $ 3,900.00

For operation, one thousand and ninety dollars..... $ 1,090.00

FIRE MARSHAL
FROM THE FIRE MARSHAL'S FUND

As much as may be necessary, of all collections, to pay lawful claims as provided in Section 2761, Revised Codes of Montana, 1935.

FROM THE FIREMEN'S DISABILITY FUND

For the payment of the distribution of the firemen's disability fund, as provided in Section 5127 of the Revised Codes of Montana, 1935, an appropriation sufficient to meet the requirements as provided by law.

SUPERINTENDENT OF PUBLIC INSTRUCTION
FROM THE GENERAL FUND

For salaries fixed by law, sixty-one hundred dollars.... $ 6,100.00

For salaries not fixed by law, fifty-one hundred dollars ..... $ 5,100.00

For capital, repairs and replacements, two hundred dollars ..... $ 200.00

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For operation, fifty-two hundred dollars ..... $ 5,200.00

HIGH SCHOOL AND RURAL SCHOOL INSPECTORS
FROM THE GENERAL FUND

For salaries fixed by law, five thousand dollars..... $ 5,000.00
For operation, fourteen hundred dollars ..... $ 1,400.00

CERTIFICATION DEPARTMENT
FROM THE TEACHERS' CERTIFICATE FUND

All fees and collections are hereby appropriated to carry out the provisions of Section 1095, Revised Codes of Montana, 1935.

SUPREME COURT
FROM THE GENERAL FUND

For salaries fixed by law, forty-six thousand three hundred dollars ..... $ 46,300.00

For salaries not fixed by law, thirty-six hundred dollars ..... $ 3,600.00

For capital, repairs and replacements, two hundred and fifty dollars ..... $ 250.00

For operation, fifty-one hundred and thirty dollars.... $ 5,130.00

ATTORNEYS' LICENSING BOARD
FROM ATTORNEYS' LICENSING FUND

All fees and collections as may be found necessary in carrying out the provisions of Section 8936 to Section 8974 of the Revised Codes of Montana, 1935.

RAILROAD COMMISSION

RAILROAD AND PUBLIC SERVICE DIVISION
FROM THE GENERAL FUND

For salaries fixed by law, twelve thousand dollars..... $ 12,000.00

For salaries not fixed by law, eighteen thousand nine hundred and sixty-seven dollars ..... $ 18,967.00

For capital, repairs and replacements, two hundred and fifty dollars ..... $ 250.00

For operation, four thousand dollars ..... $ 4,000.00

For salaries and expenses of electrical safety inspection, three thousand dollars ..... $ 3,000.00

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MOTOR CARRIER DIVISION
FROM THE MOTOR CARRIERS FUND

All fees and collections for salaries and expenses as provided for in Section 3847.17, Revised Codes of Montana, 1935.

GAS AND OIL WELL INSPECTION
FROM THE GENERAL FUND

For salaries not fixed by law, five thousand dollars....$ 5,000.00

For capital, repairs and replacements, three hundred fifty dollars .....$ 350.00

For operation, three thousand dollars .....$ 3,000.00

GASOLINE LICENSING DIVISION
FROM THE GASOLINE INSPECTION FUND

All collections are hereby appropriated for the use of this department in accordance with Section 3913.2, Revised Codes of Montana, 1935.

Section 4. It is further provided that in the appropriations for the state treasurer, contained herein, no provision is made for the printing of the state treasurer's quarterly report.

Section 5. It is further provided that all appropriations contained herein shall be used for the purposes designated and no other, and wherein appropriations are made for sub-divisions, the appropriations given are not interchangeable between divisions, and the definitions given in Section 1 of the act shall govern all appropriations.

Section 6. Appropriations contained herein shall not be used for travel to conventions, teachers meetings, association meetings or gatherings of like character, wherein the said meetings are held outside of the State of Montana except by special permission of the state board of examiners who may deem it necessary for attendance on such meetings. The state board of examiners shall spread on their minutes the reasons for their permission.

Section 7. Appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Approved March 15, 1937.

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HOUSE BILL NO. 274

An Act Appropriating Money for the Payment of a Certain Judgment Duly and Regularly Made and Entered in the District Court of the First Judicial District of the State of Montana in and for the County of Lewis and Clark Against the State of Montana, in the Sum of Two Thousand Six Hundred Ninety-Five Dollars ($2695.00) in Favor of Pietro Maria Amabile Notti as Consular Agent of Italy, by Reason of Said Money Belonging to Steve Angelo, Deceased, an Italian Subject and Which Money Was Paid and Delivered to the State Treasurer of the State of Montana, Pursuant to Section 10001 Revised Codes of the State of Montana, 1935 Relating to the Duties of Public Administrators in Handling Escheated Estates, and Directing the State Auditor to Draw His Warrant in Settlement of Said Judgment.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of two thousand six hundred ninety-five dollars ($2695.00), or so much thereof as may be necessary, be and the same is hereby appropriated out of the escheated estate fund or out of any moneys in the treasury of the State of Montana not otherwise appropriated for the payment of a certain judgment against the State of Montana in the sum of two thousand six hundred ninety-five dollars ($2695.00) and in favor of Pietro Maria Amabile Notti, as consular agent of the Kingdom of Italy, said judgment having been so duly made, rendered and entered in the district court of the first judicial district of the State of Montana, in and for the County of Lewis and Clark, by reason of the payment to the state treasurer by the county treasurer of Madison county, Montana of the sum of two thousand six hundred ninety-five dollars ($2695.00) upon the order of the district court of the fifth judicial district of the State of Montana in and for the County of Madison, pursuant to Section 10001, Revised Codes of Montana 1935, said money having been the property of Steve Angelo, deceased, a subject of the Kingdom of Italy, who died in Madison county, Montana, on the 24th day of November, 1922, leaving no known heirs or partners in business, due search having since that time been made, and said sum being payable to said consular agent of Italy, pursuant to a reciprocal treaty between the United States of America and the Kingdom of Italy.

Section 2. That upon proof of said judgment having been duly made, entered and rendered, the state auditor of the State of Montana is hereby directed to draw his warrant in favor of the said Pietro Maria Amabile Notti as consular agent of the Kingdom of

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Italy in the sum of such amount as shall have been so paid in the state treasury by the county treasurer of Madison county, Montana, under the aforesaid order of said court, not exceeding the sum of two thousand six hundred ninety-five dollars ($2695.00), and upon acceptance of said warrant, said judgment shall be satisfied in full and shall be wholly satisfied and discharged.

Section 3. The appropriation hereinabove provided for shall be deemed valid notwithstanding the provisions of the budget act.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 17, 1937.

HOUSE BILL NO. 297

An Act to Appropriate Money for the Payment to the Officers and Attaches and for Incidental Expenses of the Twenty-fifth Legislative Assembly of the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums or so much thereof as may be necessary, be, and the same are hereby appropriated, out of any money in the state treasury, not otherwise appropriated, for the objects and purposes hereinafter expressed, and in addition to all sums heretofore appropriated, but for no other:

For the payment of per diem to the officers and attaches of the Twenty-fifth Legislative Assembly of the State of Montana, twenty thousand dollars ..... $ 20,000.00

For the payment of incidental expenses of the Twenty-fifth Legislative Assembly of the State of Montana, five thousand dollars ..... $ 5,000.00

Section 2. Any amount or amounts remaining in any appropriation for the Twenty-fifth Legislative Assembly may be transferred to supplement the amount or amounts remaining in any other appropriations for the Twenty-fifth Legislative Assembly; provided, that the aggregate amount of all such appropriations shall be neither increased or decreased.

Section 3. Appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

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Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved February 16, 1937.

HOUSE BILL NO. 312

An Act to Appropriate Money From the State General Fund for the Salary of Bandmaster and Instructor at the Montana State Prison, and to Prevent the Termination of the W. A. Clark Trust for the Benefit of Prisoners at Said Institution, for the Biennium July 1, 1937 to June 30, 1939.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That in order to maintain the existence and productivity of the W. A. Clark trust for the maintenance of a band, band equipment, musical library, instrument repairs and other incidentals, the following sum, or so much thereof as may be found necessary, shall be and the same is hereby appropriated out of any moneys in the general fund of the state treasury, not otherwise appropriated, for the salary and traveling expenses of bandmaster and musical instructor at the Montana state prison, for the period beginning July 1, 1937 and ending June 30, 1938, twenty-five hundred dollars ($2500.00).

Section 2. That in order to maintain the existence and productivity of the W. A. Clark trust for the maintenance of a band, band equipment, musical library, instrument repairs and other incidentals, the following sum, or so much thereof as may be found necessary, shall be and the same is hereby appropriated out of the moneys in the general fund of the state treasury, not otherwise appropriated, for the salary and traveling expenses of bandmaster and musical instructor at the Montana state prison, for the period beginning July 1, 1938 and ending June 30, 1939, twenty-five hundred dollars ($2500.00).

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 15, 1937.

PROPERTY OF
LOUISIANA STATE LIBRARY

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HOUSE BILL NO. 316

An Act Appropriating Money for the Payment of Certain Claims for Refunds of Gasoline Tax Paid by the Various Departments of the United States Government.

Be it enacted by the Legislative Assembly of the State of Montana:

Section I. That the following sums of money or so much thereof as may be necessary, be, and the same are hereby appropriated out of any monies in the state treasury in the gasoline drawback fund, not otherwise appropriated, for the purpose of paying the following claims of the United States government for gasoline tax paid by the various departments of the said government, thirty-nine dollars and 97/100 ..... $ 39.97

The same being more particularly itemized as follows:

Treasury department, alcohol tax unit	$	7.48
Department of interior, geological survey	$	1.02
Department of interior, Indian affairs	$	2.85
War department, chief of finances	$	5.29
Department of commerce, bureau of air commerce	$	2.27
Veterans' administration facility	$	3.20
Veterans' administration facility	$	7.06
War department, engineering corps	$	.60
Department of agriculture, soil conservation service	$	2.03
Department of agriculture, bureau of plant industry	$	1.10
Treasury department, internal revenue service	$	.65
Veterans' administration facility	$	2.55
War department, engineers office	$	.72
Veterans' administration facility	$	1.95
Department of commerce, bureau of air commerce	$	1.20

Section II. The appropriation herein provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section III. This act shall be in full force and effect from and after its passage and approval.

Approved March 15, 1937.

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HOUSE BILL NO. 317

An Act to Appropriate Money for the Payment of Certain Claims for Refund of Taxes Erroneously Paid Into the State Treasury.

Be it enacted by the Legislative Assembly of the State of Montana:

Section I. That the following sums or so much thereof as may be necessary, be, and the same are hereby appropriated out of any money in the state treasury, not otherwise appropriated, and from special funds enumerated herein, not otherwise appropriated, for the purpose of paying the following claims for tax refunds.

PUBLIC SCHOOL GENERAL FUND

For the over payment of 1935 and 1936 freight line taxes, ninety dollars and 52/100 ..... $ 90.52

American Tank Line Company ..... $ 90.52

VETERANS' MEMORIAL FUND

For refund of 5% state tax paid the state athletic commission by error on wrestling matches during the years 1931 and 1932, forty dollars and 38/100 ..... $ 40.38

Kalispell Lodge No. 752 B. P. O. E. ..... $ 40.38

GENERAL FUND

For the payment of claim for taxes erroneously paid to the State of Montana, eleven dollars and 85/100..... $ 11.85

Treasuer of Hill County ..... $ 11.85

UNIVERSITY MILLAGE FUND

For the payment of claim for taxes erroneously paid to the State of Montana, sixty-seven dollars and 86/100.. $ 67.86

Treasurer of Hill County ..... $ 67.86

EDUCATIONAL BOND INTEREST AND SINKING FUND

For the payment of claim for taxes erroneously paid to the State of Montana, twelve dollars and 53/100..... $ 12.53

Treasurer of Hill County ..... $ 12.53

Section II. The appropriation herein provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section III. This act shall be in full force and effect from and after its passage and approval.

Approved March 15, 1937.

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HOUSE BILL NO. 319

An Act to Appropriate Money for the Payment of Certain Claims Arising From the Operation of the State Vocational School for Girls, the Montana State Hospital and the State School for the Deaf and Blind.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums of money or so much thereof as may be necessary, be, and the same are hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the purpose of paying the following claims for obligations incurred by the state vocational school for girls, the Montana state hospital and the state school for the deaf and blind.

VOCATIONAL SCHOOL FOR GIRLS

For the payment of expenses arising out of the operation of the vocational school for girls during the biennium of 1933-1935 the appropriation having been insufficient, five hundred eighty dollars and 46/100 ..... $ 580.46

The same being more particularly itemized as follows:

A. M. Holter Hardware Company	$	4.45
Paul C. Knapp	$	.65
Missoula Drug Company	$	137.71
Fligelman's	$	266.47
Industrial accident board	$	119.03
John Gilmour	$	2.10
Sanden & Ferguson	$	27.80
F. W. Woolworth	$	22.25

MONTANA STATE HOSPITAL FOR THE INSANE

For the payment of expenses arising out of the operation of the Montana state hospital for the insane during the biennium of 1933-1935 the appropriation having been insufficient, nine thousand six hundred thirty-five dollars and 40/100 ..... $ 9,635.40

The same being more particularly itemized as follows:

Missoula Drug Company	$	558.25
Industrial accident board	$	936.78
John R. Daily Inc.	$	971.86
Montana Power Company	$	7,168.51

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STATE SCHOOL FOR THE DEAF AND BLIND

For the payment of expenses arising out of the operation of the state school for the deaf and blind during the biennium of 1933-1935 the appropriation having been insufficient, six hundred seventy-two dollars and 74/100....$ 672.74

The same being more particularly itemized as follows:

Continental Oil Company	$	135.52
Langan & Davis	$	60.70
Western States Grocery Company	$	472.40
Linde Air Products Company	$	4.12

Section II. The appropriations herein provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section III. This act shall be in full force and effect from and after its passage and approval.

Approved March 15, 1937.

HOUSE BILL NO. 320

An Act to Appropriate Money for Certain Claims Arising From the Operation of Certain Boards, Commissions and Departments of the State Government During the Biennium July First 1933 to June 30th 1935 for Which Departments, Boards and Commissions the Appropriations for Said Biennium Were Insufficient.

Be it enacted by the Legislative Assembly of the State of Montana:

Section I. That the following sums of money or so much thereof as may be necessary, be, and the same are hereby appropriated out of any money in the state treasury or any special funds enumerated herein, not otherwise appropriated, for the purpose of paying claims for obligations incurred by certain departments, boards and commissions of the State of Montana during the biennium ending June 30, 1935, the appropriations for said departments having been insufficient to pay all outstanding obligations.

GENERAL FUND

BOARD OF RAILROAD COMMISSIONERS

For the payment of expenses arising out of the operation of the board of railroad and public service commission, forty-four dollars and 25/100 ....$ 44.25

Power Wilson Company	$	44.25

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ADJUTANT GENERAL

For the payment of expenses arising out of the operation of the adjutant general's office, two hundred fifty-four dollars and 26/100 ..... $ 254.26

The same being more particularly itemized as follows:

Great Northern Railway	$	4.41
Great Northern Railway	$	2.20
Naegele Printing Company	$	26.55
Dr. F. B. Ross	$	21.00
Dr. L. R. Packard	$	38.00
Lowe and Campbell	$	16.35
Lowe and Campbell	$	13.04
Lowe and Campbell	$	80.21
Lowe and Campbell	$	52.50

GOVERNOR'S MANSION

For the operation of the governor's mansion, three dollars and 22/100 ..... $ 3.22

Industrial accident board ..... $ 3.22

CAPITOL CUSTODIAN

For the operation of the capitol custodian department, one hundred sixty-five dollars and 82/100 ..... $ 165.82

The same being more particularly itemized as follows:

Industrial accident board	$	164.62
Herrmann and Company	$	1.20

DEPARTMENT OF AGRICULTURE

For the operation of the department of agriculture, ninety-six dollars and 64/100 ..... $ 96.64

The same being more particularly itemized as follows:

United States department of agriculture, bureau of agricultural economics	$	74.54
Industrial accident board	$	22.10

STATE FORESTER

For the payment of expenses arising out of the operation of the state forester's department, sixteen dollars and 75/100 ..... $ 16.75

The Missoulian Publishing Company ..... $ 16.75

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STATE PURCHASING AGENT

For the payment of expenses arising out of the operation of the state purchasing department, six dollars and no/100 ..... $ 6.00

The Gazette Printing Company ..... $ 6.00

UNIVERSITY MILLAGE FUND

MONTANA SCHOOL OF MINES

For the payment of expenses arising out of the operation of the Montana School of Mines, eighty-seven dollars and 08/100 ..... $ 87.08

Industrial accident board ..... $ 87.08

STATE BUREAU OF MINES AND GEOLOGY

For the payment of expenses arising out of the operation of the state bureau of mines and geology, twelve dollars and 72/100 ..... $ 12.72

Industrial accident board ..... $ 12.72

Section II. The appropriation herein provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section III. This act shall be in full force and effect from and after its passage and approval.

Approved March 15, 1937.

HOUSE BILL NO. 322

An Act to Appropriate Money for Certain Claims of the Twenty-fourth Legislative Assembly.

Be it enacted by the Legislative Assembly of the State of Montana:

Section I. That the following sums of money or so much thereof as may be necessary, be, and the same are hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the purpose of paying the following claims for obligations incurred by the Twenty-fourth Legislative Assembly of the State of Montana.

To the State Publishing Company.

For senate journals, three thousand seventy dollars and 77/100 ..... $3070.77

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To the State Publishing Company.

For the publication of the 1935 session laws, three thousand one hundred ninety dollars and 99/100 ..... $3190.99

Section II. The appropriation herein provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section III. This act shall be in full force and effect from and after its passage and approval.

Approved March 15, 1937.

HOUSE BILL NO. 323

An Act to Appropriate Money for the Payment of Mileage and Per Diem to Presidential Electors.

Be it enacted by the Legislative Assembly of the State of Montana:

Section I. That the following sums or so much thereof as may be necessary, be, and the same are hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the purposes and objects herein after expressed, but for no other purposes.

For the payment of mileage and per diem for presidential electors, one hundred ninety-two dollars and 56/100 ..... $ 192.56

The same being more particularly itemized as follows:

B. C. White ..... $ 59.40

John Dwyer ..... $ 89.36

Mrs. Lydia McAllister ..... $ 23.72

Mrs. Helen McGilvra ..... $ 20.08

Section II. The appropriation herein provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section III. This act shall be in full force and effect from and after its passage and approval.

Approved March 15, 1937.

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HOUSE BILL NO. 324

An Act Appropriating Money for the Payment of the Claim of Fred B. Sheriff as Compensation for Expenses Incurred While Acting for the State of Montana as State Commissioner of Aeronautics.

Be it enacted by the Legislative Assembly of the State of Montana:

Section I. THAT WHEREAS Fred B. Sheriff while in the performance of his duties as commissioner of aeronautics for the State of Montana under a commission issued to him by the late Governor F. H. Cooney, on the 8th day of April 1933, did pay from his personal funds the amount of three hundred two dollars and 50/100 ($302.50), and in addition thereto gave unstintingly of his time and secured for the State of Montana, through the expenditure of government funds, the development of seventy (70) landing fields and airports at an estimated expense of one million ($1,000,000.00) dollars; NOW THEREFORE, there is hereby appropriated out of any monies in the treasury of the State of Montana, not otherwise appropriated, the sum of three hundred two dollars and 50/100 ..... $ 302.50.

Section II. The appropriation herein above provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section III. This act shall be in full force and effect from and after its passage and approval.

Approved March 15, 1937.

HOUSE BILL NO. 337

An Act to Appropriate Money for the Operation, Maintenance and Other Purposes, as Designated Herein, for All State Departments, Boards, Bureaus and Commissions for the Period Beginning July 1, 1937 and Ending June 30, 1939.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purpose of this act unless otherwise required by the context:

(1) The term "salaries" means the compensation paid in consideration of services rendered to all regularly elected or appointed

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officers or employees whose duties are of a continuous nature. It does not mean wages or compensation paid in consideration of services rendered to temporary employees and/or persons appointed or hired for a period of less than one month, the payment of which is hereby made a proper charge from funds appropriated for "operation".

(2) The term "capital", unless otherwise herein designated or defined, means all articles, fixtures and goods of a permanent nature, but in no event shall the term "capital" mean buildings or lands unless specifically defined herein.

(3) The term "repairs" means the amounts to be paid for the repairing of any capital asset, including buildings or lands.

(4) The term "replacements" means the amounts to be paid for the replacing of any capital asset as defined in Paragraph (2) above, by the purchase of a new one to take its place by reason of the original asset being worn out or broken, but in no instance shall it include the purchase of any article to replace another if the original article is retained and remains in use.

(5) The term "operation" means all other expenditures which are necessary for the operation of the department, board, bureau, commission or institution to which the appropriation applies, including wages of employees paid to temporary employees for work not considered of a continuous nature.

(6) The term "salaries and expenses" means any expense, including salaries, capital, repairs and replacements and other operation, as defined above.

(7) The term "expense" means any expense defined above, with the exception of salaries.

(8) When reference is made herein to any chapter or section of the laws of Montana, said reference shall include any and all laws amendatory thereto.

Section 2. That the following sums or as much thereof as may be found necessary, be, and the same are hereby appropriated out of any moneys in the state treasury, and from special funds enumerated herein, not otherwise appropriated for the objects and purposes hereinafter expressed, for the period beginning July 1, 1937 and ending June 30, 1938.

LIVESTOCK SANITARY BOARD AND VETERINARY SURGEON

FROM THE GENERAL FUND

For salaries and expenses, sixty thousand dollars.....$ 60,000.00

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FROM THE LIVESTOCK SANITARY BOARD FUND

For the payment of slaughtered stock as provided in Section 2078, Revised Codes of Montana 1935, and for salaries and expenses of the livestock sanitary board, such sums as may be available.

FROM THE LIVESTOCK SANITARY BOARD EMERGENCY FUND

For the payment of emergencies arising out of the operation of the livestock sanitary board as much as may be required when such emergency is declared to exist by the said livestock sanitary board as provided in Section 2078 Revised Codes of Montana, 1935.

LIVESTOCK COMMISSION

FROM THE GENERAL FUND

For salaries and expenses, twenty-five thousand dollars ..... $ 25,000.00

FROM THE LIVESTOCK COMMISSION FUND

All collections are hereby appropriated for salaries and expenses in connection with the work of the commission as provided in Section 3257, Revised Codes of Montana, 1935.

FROM THE BOUNTY FUND

For the salary of one clerk, one thousand four hundred forty dollars ..... $ 1,440.00

For the payment of bounty claims, so much thereof as may be necessary as provided in Section 3417, Revised Codes of Montana, 1935.

FROM THE STOCK ESTRAY FUND

So much thereof as may be necessary for the payment of estray claims as provided in Section 3331, Revised Codes of Montana, 1935.

BUREAU OF CIVILIAN REHABILITATION

FROM THE GENERAL FUND

For salary of supervisor, three thousand dollars..... $ 3,000.00

For other salaries and expenses, nine thousand dollars.. $ 9,000.00

For payment of maintenance of vocational trainees, thirteen thousand dollars ..... $ 13,000.00

FROM THE CIVILIAN REHABILITATION U. S. AID FUND

For salaries and expenses as much thereof as may be available in compliance with Chapter 260, Revised Codes of Montana, 1935.

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STATE ENTOMOLOGIST
FROM THE GENERAL FUND

For salaries and expenses, for eradication of grasshoppers and crickets, nine thousand two hundred dollars.....$ 9,200.00

* For salaries and expenses, for research work in connection with the bubonic plague, twenty-five hundred dollars .....$ 2,500.00

BOARD OF HEALTH
FROM THE GENERAL FUND

For salaries fixed by law, five thousand dollars.....$ 5,000.00

For other salaries, thirty thousand dollars.....$ 30,000.00

For capital repairs and replacements, three hundred dollars .....$ 300.00

For operation, one thousand five hundred dollars.....$ 1,500.00

CHILD WELFARE DIVISION
FROM THE GENERAL FUND

For salaries and expenses, nine thousand dollars.....$ 9,000.00

FROM THE BOARD OF HEALTH REVOLVING FUND

All fees and earnings are hereby appropriated to be used in connection with the board of health and child welfare division as salaries and expenses.

The amounts above appropriated are declared to be in addition to any money received for any special work, in connection with the board of health or the child welfare division, for which it is received.

STATE EXAMINER
FROM THE GENERAL FUND

For salaries fixed by law, thirty-two thousand four hundred dollars .....$ 32,400.00

For other salaries, six thousand four hundred eighty dollars .....$ 6,480.00

For capital, repairs and replacements, six hundred dollars .....$ 600.00

For operation, twelve thousand seven hundred dollars .....$ 12,700.00

* Vetoed: See Executive Letter at end of Bill.

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PERMANENT REVOLVING FUND
FROM THE GENERAL FUND

There is further appropriated from the general fund, the sum of five thousand dollars, ($5,000.00) for the purpose of creating a permanent revolving fund to be known as the state examiner's permanent revolving fund. The salaries and expenses of all examinations of the Montana liquor control board, Montana relief commission or other agency handling the social security act, Montana fish and game department, Montana water conservation board, Montana highway commission, board of abstract examiners, board of architectural examiners, board of medical examiners, licensed embalmers board, Montana milk control board, Montana Tuberculosis Association, Montana stallion registration board, hail insurance board, board of chiropractic examiners, state grazing commission, state highway patrol, motor vehicle department, Montana athletic commission and public school teacher's retirement, and any other department, board or commission not operating on a general fund appropriation, and all such examinations shall be paid from this revolving fund, and such board, commission, department or agency, shall reimburse said fund in an amount equal to the entire expense incurred in making such examination or examinations, so that this fund may become a permanent revolving fund for the purpose of meeting the expense incurred in making such examinations.

FROM THE SPECIAL EXAMINER FUND

All fees and collections for special examinations are hereby appropriated as provided in Section 6014.84, Revised Codes of Montana, 1935.

ADJUTANT GENERAL
FROM THE GENERAL FUND

For salaries fixed by law, three thousand dollars.....$ 3,000.00

For other salaries, seven thousand dollars .....$ 7,000.00

For capital, repairs and replacements, five hundred twenty-five dollars .....$ 525.00

For rental of drill halls and store rooms, fourteen thousand seven hundred fifty dollars .....$ 14,750.00

For operation, twenty-two thousand seven hundred forty-five dollars .....$ 22,745.00

BOARD OF HAIL INSURANCE
FROM HAIL INSURANCE ADMINISTRATIVE FUND

For salaries fixed by law, three thousand dollars.....$ 3,000.00

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For other salaries and expenses, eight thousand nine hundred fourteen dollars .....$ 8,914.00

FROM THE HAIL INSURANCE FUND

So much thereof as may be necessary to pay all losses and lawful claims in compliance with Section 361, Revised Codes of Montana, 1935.

INDUSTRIAL ACCIDENT BOARD
FROM THE GENERAL FUND

For salaries fixed by law, five thousand dollars.....$ 5,000.00

For other salaries and expenses, thirty-five thousand dollars .....$ 35,000.00

FROM THE INDUSTRIAL ADMINISTRATIVE FUND

In addition to the above appropriation there is hereby appropriated all fees and collections accruing to the industrial administrative fund for salaries and expenses as provided in Section 2831, Revised Codes of Montana, 1935.

FROM THE INDUSTRIAL ACCIDENT FUND

So much thereof as may be necessary to pay all claims which are lawfully chargeable to this fund, as defined under Section 2993, Revised Codes of Montana, 1935.

BOARD OF EXAMINERS FOR COAL MINE INSPECTORS
FROM THE GENERAL FUND

For salaries and expenses, three hundred fifty dollars..$ 350.00

BOARD OF EDUCATION
FROM THE GENERAL FUND

For salaries and expenses, nine hundred fifty dollars....$ 950.00

FROM THE PUBLIC SCHOOL GENERAL FUND

For salary of one clerk, one thousand eight hundred dollars .....$ 1,800.00

VOCATIONAL EDUCATION
FROM THE GENERAL FUND

For salaries and expenses in connection with vocational education, twenty thousand dollars .....$ 20,000.00

In addition to the foregoing amount, all income from federal funds, known as the vocational U. S. aid fund, George Ellzey fund, or any other federal funds that may be available are hereby appro-

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priated. No reimbursement shall be made to any of the units of the Greater University of Montana from the above general fund appropriation.

TEXT BOOK COMMISSION
FROM THE GENERAL FUND

For expenses, six hundred dollars ..... $ 600.00

STATE LAW LIBRARY
FROM THE GENERAL FUND

For salaries fixed by law, four thousand three hundred dollars ..... $ 4,300.00

For capital, repairs and replacements, seven hundred dollars ..... $ 700.00

For operation, two hundred forty dollars ..... $ 240.00

For legislative reference bureau, seventy-five dollars ..... $ 75.00

FROM THE LAW LIBRARY BOOK FUND

So much thereof as may be necessary for the purchase of law books as provided in Section 1556 Revised Codes of Montana, 1935.

HISTORICAL SOCIETY OF MONTANA
FROM THE GENERAL FUND

For salaries, four thousand two hundred dollars ..... $ 4,200.00

For capital, repairs and replacements, one thousand six hundred twenty dollars ..... $ 1,620.00

For operation, six hundred eighty dollars ..... $ 680.00

STATE BOARD OF EXAMINERS
FROM THE GENERAL FUND

For salaries fixed by law, three thousand six hundred dollars ..... $ 3,600.00

For other salaries, six thousand four hundred fifty dollars ..... $ 6,450.00

For capital repairs, and replacements, three hundred fifty dollars ..... $ 350.00

For operation, one thousand six hundred seventy-five dollars ..... $ 1,675.00

STATE ACCOUNTANT AND BUDGET OFFICE
FROM THE GENERAL FUND

For salaries fixed by law, four thousand dollars ..... $ 4,000.00

For other salaries, seven thousand dollars ..... $ 7,000.00

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For capital, repairs and replacements, three hundred fifty-five dollars ..... $ 355.00

For operation, two thousand three hundred forty-five dollars ..... $ 2,345.00

STATE ENGINEER

FROM THE GENERAL FUND

For salaries fixed by law, three thousand dollars..... $ 3,000.00

For other salaries, two thousand four hundred dollars.. $ 2,400.00

For capital, repairs and replacements and operation, nine hundred dollars ..... $ 900.00

STREAM GAUGING

FROM THE GENERAL FUND

For salaries and expenses, six thousand dollars..... $ 6,000.00

For survey of interstate water, one thousand two hundred fifty dollars ..... $ 1,250.00

FROM THE CAREY LAND ACT FUND

For salaries and expenses, three thousand five hundred twenty-seven dollars ..... $ 3,527.00

STATE HIGHWAY COMMISSION

FROM THE HIGHWAY FUND

There is hereby appropriated out of the state highway fund all revenue for expenditures by the state highway commission as provided by law; provided that the total cost to the State for administration and engineering on the federal aid work prescribed by law shall not exceed for any fiscal year eight per cent (8%) of the total of state and federal aid and other available funds expended under the supervision of the state highway commission as provided by Initiative Measure No. 31 and acts supplementary or amendatory thereto; provided further, that the commission shall file with the governor a monthly report, showing the overhead cost of operation; provided further, that the state treasurer is hereby required to transfer from the state highway fund to the state highway trust fund from time to time upon the request of the state highway commission, subject to the approval of the state board of examiners such parts of the money hereby appropriated as are necessary to match federal aid for construction and for reconstruction purposes and when so transferred, said moneys may be expended and drawn from the said state highway trust fund in the same manner as other moneys in said fund are expended.

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COMMISSIONER OF STATE LANDS AND INVESTMENTS
FROM THE GENERAL FUND

For salaries fixed by law, six thousand dollars.....$ 6,000.00
For other salaries, sixteen thousand dollars.....$ 16,000.00
For capital, repairs and replacements, three hundred seventy-five .....$ 375.00
For operation, four thousand dollars .....$ 4,000.00

CHIEF FIELD AGENT
FROM THE GENERAL FUND

For salaries fixed by law, three thousand two hundred fifty dollars .....$ 3,250.00
For other salaries, six thousand dollars .....$ 6,000.00
For expenses, six thousand six hundred dollars.....$ 6,600.00

FISH AND GAME COMMISSION
FROM THE FISH AND GAME FUND

As much as may be necessary to pay all lawful claims as provided in Section 3687, Revised Codes of Montana, 1935.

CAPITOL BUILDING
FROM THE GENERAL FUND

For salaries fixed by law, twenty-five thousand four hundred ninety dollars .....$ 25,490.00
For salaries of postmaster and assistant, three thousand dollars .....$ 3,000.00
For capital, repairs and replacements, seven thousand five hundred dollars .....$ 7,500.00
For operation, twelve thousand five hundred dollars....$ 12,500.00

G. A. R. CUSTODIAN
FROM THE GENERAL FUND

For salary of custodian, nine hundred dollars .....$ 900.00

BOARD OF ARCHITECTURAL EXAMINERS
FROM THE ARCHITECTURAL BOARD FUND

All revenue is hereby appropriated in compliance with Section 3237, Revised Codes of Montana, 1935.

BOARD OF MEDICAL EXAMINERS
FROM THE MEDICAL BOARD FUND

All revenue is hereby appropriated in compliance with Section 3124, Revised Codes of Montana, 1935.

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MILK CONTROL BOARD
FROM THE MILK CONTROL FUND

All revenue is hereby appropriated in compliance with Section 2639.9, Revised Codes of Montana, 1935.

BOARD OF CHIROPRACTIC EXAMINERS
FROM THE CHIROPRACTIC BOARD FUND

All revenue is hereby appropriated in compliance with Section 3150, Revised Codes of Montana, 1935.

STATE EXAMINING BOARD OF ABSTRACTORS
FROM THE ABSTRACTORS BOARD FUND

All revenue is hereby appropriated in compliance with Section 4139.4, Revised Codes of Montana, 1935.

STATE GRAZING COMMISSION
FROM THE STATE GRAZING FUND

All revenue is hereby appropriated in compliance with Section 7364.25 and 26, Revised Codes of Montana, 1935.

STATE HIGHWAY PATROL
FROM THE HIGHWAY PATROL REVOLVING FUND

All revenue is hereby appropriated in compliance with Section 1741.12, Revised Codes of Montana, 1935.

VETERANS' WELFARE COMMISSION
FROM THE GENERAL FUND

For salaries and expenses, ten thousand dollars.....$ 10,000.00

STATE LIQUOR CONTROL BOARD
FROM THE LIQUOR BOARD FUND

So much thereof as may be necessary to carry out the provisions of Section 2815.153 and 2815.154, Revised Codes of Montana, 1935.

OIL CONSERVATION BOARD
FROM THE OIL CONSERVATION BOARD FUND

So much thereof as may be necessary in accordance with the provisions of Section 3554.17, Revised Codes of Montana, 1935.

BOARD OF EQUALIZATION
ADMINISTRATION
FROM THE GENERAL FUND

For salaries fixed by law, fifteen thousand dollars.....$ 15,000.00

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For other salaries, eleven thousand one hundred dollars ..... $ 11,100.00

For capital, repairs and replacements, five hundred dollars ..... $ 500.00

For operation, four thousand one hundred seventy-five dollars ..... $ 4,175.00

For salary of attorney for the board, to be appointed by the board, three thousand dollars ..... $ 3,000.00

For expenses of attorney, nine hundred dollars ..... $ 900.00

GASOLINE TAX DIVISION

FROM THE HIGHWAY FUND

For salaries, fifteen thousand dollars ..... $ 15,000.00

For expenses, six thousand dollars ..... $ 6,000.00

For refund of gas tax to federal government, five hundred dollars ..... $ 500.00

GASOLINE DRAWBACKS

FROM THE GASOLINE DRAWBACK FUND

So much thereof as may be necessary to comply with the provisions of Section 2396.4, Revised Codes of Montana, 1935.

STORE LICENSE DIVISION

FROM THE GENERAL FUND

For salaries and expenses, six thousand six hundred fifty dollars ..... $ 6,650.00

INCOME TAX DIVISION

FROM THE GENERAL FUND

For salaries and expenses, thirty-five thousand seven hundred thirty dollars ..... $ 35,730.00

CIGARETTE LICENSE DIVISION

FROM THE GENERAL FUND

For expenses, three hundred dollars ..... $ 300.00

CONTRACTORS' LICENSE DIVISION

FROM THE GENERAL FUND

For salaries and expenses, one thousand eight hundred dollars ..... $ 1,800.00

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CORPORATION LICENSE TAX DIVISION
FROM THE GENERAL FUND

For salaries and expenses, seventy-four hundred dollars ..... $ 7,400.00

DEPARTMENT OF AGRICULTURE, LABOR AND INDUSTRY
ADMINISTRATION
FROM THE GENERAL FUND

For salaries fixed by law, five thousand dollars..... $ 5,000.00
For other salaries, four thousand dollars ..... $ 4,000.00
For capital, repairs and replacements, two hundred fifty dollars ..... $ 250.00
For operation, one thousand five hundred dollars..... $ 1,500.00

DAIRY DIVISION
FROM THE GENERAL FUND

For salaries and expenses, three thousand dollars..... $ 3,000.00

GRAIN GRADING AND SCALE TESTING DIVISION
FROM THE GRAIN GRADING AND SCALE TESTING
REVOLVING FUND

For salaries and expenses so much thereof as may be necessary for lawful claims wherein funds are available.

HORTICULTURE DIVISION
FROM THE GENERAL FUND

For salaries and expenses, two thousand dollars..... $ 2,000.00

FROM THE HIGHWAY FUND

For salaries and expenses, six thousand dollars..... $ 6,000.00

FROM THE HORTICULTURE REVOLVING FUND (352-B)

For salaries and expenses so much thereof as may be necessary to pay the lawful claims wherein funds are available.

FROM THE HORTICULTURE REVOLVING FUND (219)

For salaries and expenses so much thereof as may be necessary to comply with the provisions of Section 3634.1, Revised Codes of Montana, 1935.

DIVISION OF LABOR AND PUBLICITY
FROM THE GENERAL FUND

For salaries, and expenses, ten thousand dollars..... $ 10,000.00

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* For printing and publishing advertising matter dealing with tourist advantages of the State of Montana, five thousand dollars ..... $ 5,000.00

REAL ESTATE DIVISION
FROM THE REAL ESTATE REVOLVING FUND

For salaries and expenses so much thereof as may be necessary to pay lawful claims wherein funds are available.

POULTRY SHOW DIVISION
FROM THE GENERAL FUND

* For allotments to poultry shows, seven hundred dollars ..... $ 700.00

DIVISION OF COMMERCIAL FERTILIZER
FROM THE FERTILIZER REVOLVING FUND

For salaries and expenses so much thereof as may be necessary to pay lawful claims wherein funds are available.

STATE FAIR
FROM THE GENERAL FUND

* For the operation of a state fair, ten thousand dollars..$ 10,000.00

In addition thereto all fees and collections are hereby appropriated.

PURCHASING AGENT
FROM THE GENERAL FUND

For salaries fixed by law, five thousand dollars..... $ 5,000.00

For other salaries and expenses, four thousand seven hundred fifty-two dollars ..... $ 4,752.00

FROM THE HIGHWAY FUND

For salaries and expenses, thirteen thousand five hundred dollars ..... $ 13,500.00

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, five thousand dollars..... $ 5,000.00

FROM THE FISH AND GAME FUND

For salaries and expenses, five hundred dollars..... $ 500.00

FROM THE HIGHWAY PATROL REVOLVING FUND

For salaries and expenses, three hundred dollars..... $ 300.00

* Vetoed: See Executive Letter at end of Bill.

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STATE FORESTER
ADMINISTRATION
FROM THE GENERAL FUND

For salaries fixed by law, three thousand dollars.....$ 3,000.00
For other salaries, forty-five hundred fifty dollars.....$ 4,550.00
For capital, repairs and replacements, four hundred dollars .....$ 400.00
For operation, six hundred seventy-five dollars.....$ 675.00
For exchange of lands, four hundred fifty dollars.....$ 450.00

FOR PROTECTION OF STATE LANDS
FROM THE GENERAL FUND

For salaries and expenses, thirteen thousand four hundred fifty dollars .....$ 13,450.00

TIMBER SALES
FROM THE GENERAL FUND

For salaries and expenses, five thousand eight hundred seventy dollars .....$ 5,870.00

In addition to the above appropriations, there is hereby appropriated all revenue received by the forester's cooperative fund for the use in protection of state lands and brush and slash disposal; provided, however, no administrative salaries shall be increased by reason of the use of this fund.

MOTOR VEHICLE DEPARTMENT
FROM THE MOTOR VEHICLE FUND

So much thereof as may be necessary to pay lawful claims to be collected from the motor vehicle funds of the respective counties in proportion to the number of cars registerd in each county, as provided in Section 1760, Revised Codes of Montana, 1935.

FROM THE MOTOR VEHICLE RECORDING FUND

For salaries and expenses so much thereof as may be necessary to pay all claims of the motor vehicle division wherein funds are available. The moneys available in this fund shall be used first, before using any funds from the motor vehicle fund.

ATHLETIC COMMISSION
FROM THE VETERANS' MEMORIAL FUND

So much thereof as may be necessary to pay lawful claims as provided in Section 4551, Revised Codes of Montana, 1935.

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SALARIES AND EXPENSES OF DISTRICT JUDGES
FROM THE GENERAL FUND

For salaries and expenses, one hundred twenty thousand dollars $120,000.00

SALARIES OF COUNTY ATTORNEYS
FROM THE GENERAL FUND

For salaries, fifty thousand dollars ..... $ 50,000.00

TRANSPORTATION OF PRISONERS
FROM THE GENERAL FUND

For the purpose of paying the expenses of transporting prisoners, ten thousand dollars ..... $ 10,000.00

PUBLIC SCHOOL TEACHERS' RETIREMENT
FROM THE PUBLIC SCHOOL TEACHERS' RETIREMENT FUND

As much thereof as may be necessary, as provided in Section 1121, Revised Codes of Montana, 1935.

FIRE INSURANCE ON STATE BUILDINGS AND CONTENTS
FROM THE GENERAL FUND

For fire insurance premiums on buildings and contents for the following institutions and departments: State capitol group, Montana training school for deaf and blind, orphans' home, industrial school, vocational school, state prison, state hospital, tuberculosis sanitarium, soldiers' home, Montana state fair, fifteen thousand dollars.. $ 15,000.00

FROM UNIVERSITY MILLAGE FUND

For fire insurance premiums on buildings and contents of the Greater University of Montana, five thousand dollars ..... $ 5,000.00

FROM THE FISH AND GAME FUND

For fire insurance premiums on buildings and contents owned by the fish and game department, two thousand dollars ..... $ 2,000.00

FROM THE HIGHWAY FUND

For fire insurance premiums on buildings and contents owned by the highway department, three thousand dollars ..... $ 3,000.00

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Section 3. That the following sums or so much thereof as may be found necessary, be, and the same are hereby appropriated out of any moneys in the state treasury, and from special funds enumerated herein, not otherwise appropriated, for the objects and purposes hereinafter expressed, for the period beginning July 1, 1938, and ending June 30, 1939.

LIVESTOCK SANITARY BOARD AND VETERINARY SURGEON

FROM THE GENERAL FUND

All fees and earnings are hereby appropriated to be used in connection with the livestock sanitary board as salaries and expenses.

For salaries and expenses, fifty thousand dollars.....$ 50,000.00

FROM THE LIVESTOCK SANITARY BOARD FUND

For the payment of slaughtered stock as provided in Chapter 2078, Revised Codes of Montana, 1935, and for salaries and expenses of the livestock sanitary board, such sum as may be available.

FROM THE LIVESTOCK SANITARY BOARD EMERGENCY FUND

For the payment of emergencies arising out of the operation of the livestock sanitary boards, as much as may be required when such emergency is declared to exist by said livestock sanitary board as provided in Section 2078, of the Revised Codes of Montana, 1935.

LIVESTOCK COMMISSION

FROM THE GENERAL FUND

For salaries and expenses, twenty-five thousand dollars .....$ 25,000.00

FROM THE LIVESTOCK COMMISSION FUND

All collections are hereby appropriated for salaries and expenses in connection with the work of the commission as provided in Section 3257, Revised Codes of Montana, 1935.

FROM THE BOUNTY FUND

For the salary of one clerk, one thousand four hundred forty dollars .....$ 1,440.00

For the payment of bounty claims, so much thereof as may be necessary, as provided in Section 3417, Revised Codes of Montana, 1935.

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FROM THE STOCK ESTRAY FUND

So much thereof as may be necessary for the payment of estray claims as provided in Section 3331, Revised Codes of Montana, 1935.

BUREAU OF CIVILIAN REHABILITATION
FROM THE GENERAL FUND

For salary of supervisor, three thousand dollars.....$ 3,000.00
For other salaries and expenses, nine thousand dollars..$ 9,000.00
For payment of maintenance of vocational trainees, thirteen thousand dollars .....$ 13,000.00

FROM THE CIVILIAN REHABILITATION U. S. AID FUND

For salaries and expenses so much thereof as may be available in compliance with Chapter 260, Revised Codes of Montana, 1935.

STATE ENTOMOLOGIST
FROM THE GENERAL FUND

For salaries and expenses, for eradication of grasshoppers and crickets, nine thousand two hundred dollars..$ 9,200.00

BOARD OF ENTOMOLOGY
FROM THE GENERAL FUND

For salaries and expenses for research work in connection with the bubonic plague, twenty-five hundred dollars .....$ 2,500.00

BOARD OF HEALTH
FROM THE GENERAL FUND

For salaries fixed by law, five thousand dollars.....$ 5,000.00
For other salaries, thirty thousand dollars.....$ 30,000.00
For capital, repairs and replacements, three hundred dollars .....$ 300.00
For operation, fifteen hundred dollars .....$ 1,500.00

CHILD WELFARE DIVISION
FROM THE GENERAL FUND

For salaries and expenses, nine thousand dollars.....$ 9,000.00

FROM THE BOARD OF HEALTH REVOLVING FUND

All fees and earnings are hereby appropriated to be used in connection with the board of health and child welfare division as salaries and expenses.

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The amounts above appropriated are declared to be in addition to any money received for any special work, in connection with the board of health or the child welfare division, for which it is received.

STATE EXAMINER

FROM THE GENERAL FUND

For salaries fixed by law, thirty-two thousand four hundred dollars ..... $ 32,400.00

For other salaries, six thousand four hundred eighty dollars ..... $ 6,480.00

For capital, repairs and replacements, six hundred dollars ..... $ 600.00

For operation, twelve thousand dollars ..... $ 12,000.00

FROM THE SPECIAL EXAMINER'S FUND

All fees and collections for special examinations are hereby appropriated as provided in Section 6014.84, Revised Codes of Montana, 1935.

ADJUTANT GENERAL

FROM THE GENERAL FUND

For salaries fixed by law, three thousand dollars..... $ 3,000.00

For other salaries, seven thousand dollars ..... $ 7,000.00

For capital, repairs and replacements, five hundred twenty-five dollars ..... $ 525.00

For rental of drill halls and store rooms, fourteen thousand seven hundred fifty dollars ..... $ 14,750.00

For operation, twenty-two thousand seven hundred forty-five dollars ..... $ 22,745.00

BOARD OF HAIL INSURANCE

FROM THE HAIL INSURANCE ADMINISTRATIVE FUND

For salaries fixed by law, three thousand dollars..... $ 3,000.00

For other salaries and expenses, eighty-nine hundred fourteen dollars ..... $ 8,914.00

FROM THE HAIL INSURANCE FUND

So much thereof as may be necessary to pay all losses and lawful claims in compliance with Section 361, Revised Codes of Montana, 1935.

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INDUSTRIAL ACCIDENT BOARD
FROM THE GENERAL FUND

For salaries fixed by law, five thousand dollars.....$ 5,000.00

For other salaries and expenses, thirty-five thousand dollars .....$ 35,000.00

FROM THE INDUSTRIAL ADMINISTRATIVE FUND

In addition to the above appropriation, there is hereby appropriated all fees and collections accruing to the industrial administrative fund for salaries and expenses, as provided in Section 2831, Revised Codes of Montana, 1935.

FROM THE INDUSTRIAL ACCIDENT FUND

So much thereof as may be necessary to pay all claims which are lawfully chargeable to this fund, as defined under Section 2993, Revised Codes of Montana, 1935.

BOARD OF EXAMINERS FOR COAL MINE INSPECTORS
FROM THE GENERAL FUND

For salaries and expenses, three hundred fifty dollars..$ 350.00

BOARD OF EDUCATION
FROM THE GENERAL FUND

For salaries and expenses, nine hundred fifty dollars....$ 950.00

FROM THE PUBLIC SCHOOL FUND

For salary of one clerk, one thousand eight hundred dollars .....$ 1,800.00

VOCATIONAL EDUCATION
FROM THE GENERAL FUND

For salaries and expenses in connection with vocational education, twenty thousand dollars .....$ 20,000.00

In addition to the foregoing amount, all income from federal funds, known as the vocational U. S. aid fund, and George Ellzey fund, or any other federal funds that may be available are hereby appropriated. No reimbursement shall be made to any of the units of the Greater University of Montana from the above general fund appropriation.

STATE LAW LIBRARY
FROM THE GENERAL FUND

For salaries fixed by law, four thousand three hundred dollars .....$ 4,300.00

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For capital, repairs and replacements, four hundred dollars ..... $ 400.00

For operation, two hundred forty dollars ..... $ 240.00

For legislative reference bureau, seventy-five dollars.... $ 75.00

FROM THE LAW LIBRARY BOOK FUND

So much thereof as may be necessary for the purchase of law books, as provided in Section 1556, Revised Codes of Montana, 1935.

HISTORICAL SOCIETY OF MONTANA
FROM THE GENERAL FUND

For salaries, four thousand two hundred dollars..... $ 4,200.00

For capital, repairs and replacements, one thousand six hundred twenty dollars ..... $ 1,620.00

For operation, six hundred eighty dollars ..... $ 680.00

STATE BOARD OF EXAMINERS
FROM THE GENERAL FUND

For salaries fixed by law, three thousand six hundred dollars ..... $ 3,600.00

For other salaries, six thousand four hundred fifty dollars ..... $ 6,450.00

For capital, repairs and replacements, three hundred fifty dollars ..... $ 350.00

For operation, one thousand six hundred seventy-five dollars ..... $ 1,675.00

STATE ACCOUNTANT AND BUDGET OFFICE
FROM THE GENERAL FUND

For salaries fixed by law, four thousand dollars..... $ 4,000,00

For other salaries, seven thousand dollars ..... $ 7,000.00

For capital, repairs and replacements, three hundred fifty-five dollars ..... $ 355.00

For operation, two thousand three hundred forty-five dollars ..... $ 2,345.00

STATE ENGINEER
FROM THE GENERAL FUND

For salaries fixed by law, three thousand dollars..... $ 3,000.00

For other salaries, two thousand four hundred dollars.. $ 2,400.00

For capital, repairs, replacements and operation, nine hundred dollars ..... $ 900.00

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STREAM GAUGING

FROM THE GENERAL FUND

For salaries and expenses, nine thousand dollars.....$ 9,000.00

For survey of interstate waters, one thousand two hundred fifty dollars .....$ 1,250.00

FROM THE CAREY LAND ACT FUND

For salaries and expenses, five hundred twenty-seven dollars .....$ 527.00

STATE HIGHWAY COMMISSION

FROM THE HIGHWAY FUND

There is hereby appropriated out of the state highway fund all revenue, for expenditures by the state highway commission as provided by law; provided that the total cost to the State for administration and engineering on the federal aid work prescribed by law shall not exceed for any fiscal year eight per cent (8%) of the total of state and federal aid and all other available funds expended under the supervision of the state highway commission as provided by Initiative Measure No. 31 and acts supplementary or amendatory thereto; provided further, that the commission shall file with the governor a monthly report showing the overhead cost of operation; provided further, that the state treasurer is hereby required to transfer from the state highway fund to the state highway trust fund from time to time upon the request of the state highway commission, subject to the approval of the state board of examiners, such parts of the money hereby appropriated as are necessary to match federal aid for construction and for reconstruction purposes, and when so transferred, said moneys may be expended and drawn from the said state highway trust fund in the same manner as other moneys in said fund are expended.

COMMISSIONER OF STATE LANDS AND INVESTMENTS

FROM THE GENERAL FUND

For salaries fixed by law, six thousand dollars.....$ 6,000.00

For other salaries, sixteen thousand dollars .....$ 16,000.00

For capital, repairs and replacements, three hundred seventy-five dollars .....$ 375.00

For operation, four thousand dollars .....$ 4,000.00

CHIEF FIELD AGENT

FROM THE GENERAL FUND

For salaries fixed by law, three thousand two hundred fifty dollars .....$ 3,250.00

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For other salaries, six thousand dollars .....$ 6,000.00
For expenses, six thousand six hundred dollars.....$ 6,600.00

FISH AND GAME COMMISSION
FROM THE FISH AND GAME FUND

As much as may be necessary to pay all lawful claims as provided in Section 3687, Revised Codes of Montana, 1935.

CAPITOL BUILDING
FROM THE GENERAL FUND

For salaries fixed by law, twenty-five thousand four hundred ninety dollars .....$ 25,900.00
For salaries of postmaster and assistant, three thousand dollars .....$ 3,000.00
For capital, repairs and replacements, two thousand five hundred fifty dollars .....$ 2,550.00
For operation, twelve thousand five hundred dollars....$ 12,500.00

G. A. R. CUSTODIAN
FROM THE GENERAL FUND

For salary of custodian, nine hundred dollars .....$ 900.00

BOARD OF ARCHITECTURAL EXAMINERS
FROM THE ARCHITECTURAL BOARD FUND

All revenue is hereby appropriated in compliance with Section 3237, Revised Codes of Montana, 1935.

BOARD OF MEDICAL EXAMINERS
FROM THE MEDICAL BOARD FUND

All revenue is hereby appropriated in compliance with Section 3124, Revised Codes of Montana, 1935.

MILK CONTROL BOARD
FROM THE MILK CONTROL BOARD FUND

All revenue is hereby appropriated in compliance with Section 2639.9, Revised Codes of Montana, 1935.

BOARD OF CHIROPRACTIC EXAMINERS
FROM THE CHIROPRACTIC BOARD FUND

All revenue is hereby appropriated in compliance with Section 3150, Revised Codes of Montana, 1935.

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STATE EXAMINING BOARD OF ABSTRACTORS
FROM THE ABSTRACTORS' BOARD FUND

All revenue is hereby appropriated in compliance with Section 4139.4, Revised Codes of **Montana, 1935.**

STATE GRAZING COMMISSION
FROM THE STATE GRAZING FUND

All revenue is hereby appropriated in compliance with Sections 7364.25 and 7364.27, Revised Codes of Montana, 1935.

STATE HIGHWAY PATROL
FROM THE HIGHWAY PATROL REVOLVING FUND

All revenue is hereby appropriated in compliance with Section 1741.12, Revised Codes of Montana, 1935.

VETERANS' WELFARE COMMISSION
FROM THE GENERAL FUND

For salaries and expenses, ten thousand dollars.....$ 10,000.00

STATE LIQUOR CONTROL BOARD
FROM THE LIQUOR BOARD FUND

So much thereof as may be necessary to carry out the provisions of Sections 2815.135 and 2815.154, Revised Codes of Montana, 1935.

OIL CONSERVATION BOARD
FROM THE OIL CONSERVATION BOARD FUND

So much thereof as may be necessary in accordance with the provisions of Section 3554.17, Revised Codes of Montana, 1935.

BOARD OF EQUALIZATION
ADMINISTRATION
FROM THE GENERAL FUND

For salaries fixed by law, fifteen thousand dollars.....$ 15,000.00
For other salaries, eleven thousand one hundred dollars .....$ 11,100.00
For capital, repairs and replacements, five hundred dollars .....$ 500.00
For operation, four thousand one hundred seventy-five dollars .....$ 4,175.00
For salary of attorney for the board, to be appointed by the board, three thousand dollars .....$ 3,000.00
For expenses of attorney, nine hundred dollars.....$ 900.00
For printing biennial reports, fifteen hundred dollars..$ 1,500.00

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GASOLINE TAX DIVISION
FROM THE HIGHWAY FUND

For salaries, fifteen thousand dollars ..... $ 15,000.00
For expenses, six thousand dollars ..... $ 6,000.00
For refund of gas tax to federal government, five hundred dollars ..... $ 500.00

GASOLINE DRAWBACKS
FROM THE GASOLINE DRAWBACK FUND

So much thereof as may be necessary to comply with the provisions of Section 2396.4, Revised Codes of Montana, 1935.

STORE LICENSE DIVISION
FROM THE GENERAL FUND

For salaries and expenses, six thousand six hundred fifty dollars ..... $ 6,650.00

INCOME TAX DIVISION
FROM THE PUBLIC SCHOOL GENERAL FUND

For salaries and expenses, thirty-five thousand seven hundred thirty dollars ..... $ 35,730.00

CIGARETTE LICENSE DIVISION
FROM THE GENERAL FUND

For expenses, three hundred dollars ..... $ 300.00

CONTRACTORS' LICENSE DIVISION
FROM THE GENERAL FUND

For salaries and expenses, one thousand eight hundred dollars ..... $ 1,800.00

CORPORATION LICENSE TAX DIVISION
FROM THE GENERAL FUND

For salaries and expenses, seven thousand four hundred dollars ..... $ 7,400.00

DEPARTMENT OF AGRICULTURE, LABOR AND INDUSTRY
ADMINISTRATION
FROM THE GENERAL FUND

For salaries fixed by law, five thousand dollars..... $ 5,000.00
For other salaries, four thousand dollars ..... $ 4,000.00
For capital, repairs and replacements, two hundred fifty dollars ..... $ 250.00
For operation, one thousand five hundred dollars..... $ 1,500.00

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DAIRY DIVISION

FROM THE GENERAL FUND

For salaries and expenses, three thousand dollars.....$ 3,000.00

FROM THE DAIRY DIVISION REVOLVING FUND

For salaries and expenses so much thereof as may be necessary for lawful claims wherein funds are available.

GRAIN GRADING AND SCALE TESTING DIVISION

FROM THE GRAIN GRADING AND SCALE TESTING REVOLVING FUND

For salaries and expenses so much thereof as may be necessary for lawful claims wherein funds are available.

HORTICULTURE DIVISION

FROM THE GENERAL FUND

For salaries and expenses, two thousand dollars.....$ 2,000.00

FROM THE HIGHWAY FUND

For salaries and expenses, six thousand dollars.....$ 6,000.00

FROM THE HORTICULTURE REVOLVING FUND (352-B)

For salaries and expenses so much thereof as may be necessary to pay lawful claims wherein funds are available.

FROM THE HORTICULTURE REVOLVING FUND (219)

For salaries and expenses so much thereof as may be necessary to comply with the provisions of Section 3634.1, Revised Codes of Montana, 1935.

DIVISION OF LABOR AND PUBLICITY

FROM THE GENERAL FUND

For salaries and expenses, ten thousand dollars.....$ 10,000.00

* For printing and publishing advertising matter dealing with tourist advantages of the State of Montana, five thousand dollars .....$ 5,000.00

REAL ESTATE DIVISION

FROM THE REAL ESTATE REVOLVING FUND

For salaries and expenses so much thereof as may be necessary to pay lawful claims wherein funds are available.

* Vetoed: See Executive Letter at end of Bill.

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POULTRY SHOW DIVISION
FROM THE GENERAL FUND

* For allotments to poultry shows, seven hundred dollars ..... $ 700.00

DIVISION OF COMMERCIAL FERTILIZER
FROM THE FERTILIZER REVOLVING FUND

For salaries and expenses so much thereof as may be necessary to pay lawful claims wherein funds are available.

PURCHASING AGENT
FROM THE GENERAL FUND

For salaries fixed by law, five thousand dollars..... $ 5,000.00

For other salaries and expenses, four thousand and eighty-seven dollars ..... $ 4,087.00

FROM THE HIGHWAY FUND

For salaries and expenses, thirteen thousand five hundred dollars ..... $ 13,500.00

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, five thousand dollars..... $ 5,000.00

FROM THE FISH AND GAME FUND

For salaries and expenses, five hundred dollars..... $ 500.00

FROM THE HIGHWAY PATROL REVOLVING FUND

For salaries and expenses, three hundred dollars..... $ 300.00

STATE FORESTER
ADMINISTRATION
FROM THE GENERAL FUND

For salaries fixed by law, three thousand dollars..... $ 3,000.00

For other salaries, four thousand five hundred fifty dollars ..... $ 4,550.00

For capital, repairs and replacements, four hundred dollars ..... $ 400.00

For operation, six hundred seventy-five dollars..... $ 675.00

For exchange of lands, four hundred fifty dollars..... $ 450.00

FOR PROTECTION OF STATE LANDS
FROM THE GENERAL FUND

For salaries and expenses, thirteen thousand four hundred fifty dollars ..... $ 13,450.00

* Vetoed: See Executive Letter at end of Bill.

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TIMBER SALES
FROM THE GENERAL FUND

For salaries and expenses, five thousand eight hundred seventy dollars ..... $ 5,870.00

In addition to the above appropriations, there is hereby appropriated all revenue received by the forester's cooperative fund for the use in protection of state lands and brush and slash disposal; provided, however, no administrative salaries shall be increased by reason of the use of this fund.

MOTOR VEHICLE DEPARTMENT
FROM THE MOTOR VEHICLE FUND

So much thereof as may be necessary to pay lawful claims to be collected from the motor vehicle funds of the respective counties in proportion to the number of cars registered in each county, as provided in Section 1760, Revised Codes of Montana, 1935.

FROM THE MOTOR VEHICLE RECORDING FUND

For salaries and expenses so much thereof as may be necessary to pay all claims of the motor vehicle division wherein funds are available. The moneys available in this fund shall be used first, before using any funds from the motor vehicle fund.

ATHLETIC COMMISSION
FROM THE VETERANS' MEMORIAL FUND

So much thereof as may be necessary to pay lawful claims as provided in Section 4551, Revised Codes of Montana, 1935.

SALARIES AND EXPENSES OF DISTRICT JUDGES
FROM THE GENERAL FUND

For salaries and expenses, one hundred twenty thousand dollars $120,000.00

SALARIES OF COUNTY ATTORNEYS
FROM THE GENERAL FUND

For salaries, fifty thousand dollars ..... $ 50,000.00

TRANSPORTATION OF PRISONERS
FROM THE GENERAL FUND

For the purpose of paying the expenses of transporting prisoners, ten thousand dollars ..... $ 10,000.00

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PUBLIC SCHOOL TEACHERS' RETIREMENT
FROM THE PUBLIC SCHOOL TEACHERS'
RETIREMENT FUND

So much thereof as may be necessary, as provided in Section 1121, Revised Codes of Montana, 1935.

FIRE INSURANCE ON STATE BUILDINGS AND CONTENTS
FROM THE GENERAL FUND

For fire insurance premiums on all buildings and contents for the following institutions and departments:

State capital group, school for deaf and blind, Montana training school, orphans' home, industrial school, vocational school, state prison, state hospital, tuberculosis sanitarium, soldiers' home, Montana state fair, forty thousand dollars ..... $ 40,000.00

FROM THE UNIVERSITY MILLAGE FUND

For fire insurance premiums on buildings and contents of the Greater University of Montana, twenty-five thousand dollars ..... $ 25,000.00

FROM THE FISH AND GAME FUND

For fire insurance premiums on buildings and contents owned by the fish and game department, three thousand dollars ..... $ 3,000.00

FROM THE HIGHWAY FUND

For fire insurance premiums on buildings and contents owned by the highway department, four thousand dollars ..... $ 4,000.00

FROM THE MOTOR VEHICLE FUND

For fire insurance premiums on buildings and contents owned by the motor vehicle department, five hundred dollars ..... $ 500.00

Section 4. It is further provided that all appropriations contained herein shall be used for the purposes designated and no other, and wherein appropriations are made for sub-divisions, the appropriations are not interchangeable between divisions, and the definitions given in Section 1 of this act shall govern all appropriations.

Section 5. Appropriations contained herein shall not be used for travel to conventions, teachers' meetings, association meetings

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or gatherings of like character, wherein the said meetings are held outside of the State of Montana except by special permission of the state board of examiners who may deem it necessary for attendance on such meetings. The state board of examiners shall spread on their minutes the reasons for their permission.

Section 6. It is further provided that wherein departments or institutions have specific appropriations from sources other than the general fund or university millage fund, excepting trust funds wherein a specific law governs, the money from such other sources shall be used, when available, before using the appropriations from the general fund or university millage fund, provided, however, that such restrictions shall not apply to monies accruing from special tax on livestock.

Section 7. Appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

STATE OF MONTANA

Office of the Governor

HELENA

ROY E. AYERS,
GOVERNOR

March 16, 1937.

Honorable Sam W. Mitchell,
Secretary of State,
Helena, Montana.

Dear Sir:

The within, foregoing and hereunto attached bill, which is House Bill No. 337, entitled:

"An act to appropriate money for the operation, maintenance and other purposes, as designated herein, for all state departments, boards, bureaus and commissions for the period beginning July 1, 1937, and ending June 30, 1939"

and all the items therein are hereby duly approved, save and except as to the items hereinafter enumerated, which said items are disapproved for the reasons hereinafter stated.

The item on page 4 of the bill, entitled "For salaries and expenses, for research work in connection with the bubonic plague, twenty-five hundred dollars" is disapproved, for the reason that the same is assigned to the entomologist instead of to the board of ento-

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mology. This item as written and as assigned was evidently an error and is ineffective.

On page 18 the item entitled "For allotments to poultry shows, seven hundred dollars" is disapproved for the reason that the same is unnecessary and is contrary to the general policy that all such expositions should be self-sustaining so far as the state is concerned. For the same reasons the item on page 35, entitled "For allotments to poultry shows, seven hundred dollars" is also disapproved.

The item on page 18 entitled "For printing and publishing advertising matter dealing with tourist advantages of the State of Montana, five thousand dollars" is disapproved for the reason that the bill already contains an item on the same page for ten thousand dollars, which is designed for the same purpose. For the same reasons and because of a like appropriation of ten thousand dollars designedly for the same purpose the item on page 34, entitled "For printing and publishing advertising matter dealing with tourist advantages of the State of Montana, five thousand dollars" is disapproved.

On page 19 the item entitled "For the operation of a state fair, ten thousand dollars" is disapproved for the reason that all such institutions should be self-sustaining, and all other such institutions in the state are self-sustaining so far as state appropriations are concerned. In my message to the assembly on its convening I recommended to it that such institutions and agencies should be self-sustaining and should not for that reason ask for or receive appropriations from the general fund of the state. I declared that policy and shall stand by it.

Respectfully yours,

ROY E. AYERS,
Governor.

REA:EM

HOUSE BILL NO. 379

An Act to Appropriate Money for the Use of the State Water Conservation Board of the State of Montana for the Administration Fund and the Conservation Revolving Fund of the State Water Conservation Board.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That there is hereby appropriated for the use of the state water conservation board or to any other board or agency

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exercising the functions of said board of the State of Montana, and for the purpose of carrying out the provisions of the water conservation act, acts amendatory thereto and supplementary thereof, and such other authority, powers and duties as are conferred upon the water conservation board by law, the following sums from the sources hereinafter designated:

(a) For the year ending March 1, 1938, for the administration fund of the state water conservation board six and two-thirds per centum (6⅔%) of the net profits derived under the provisions of Chapter 255, Revised Codes of Montana, 1935, designated as the State Liquor Control Act of Montana, if and when received, but which per centum shall not exceed the sum aggregating ninety thousand dollars ($90,000.00).

(b) For the year ending March 1, 1939, for the administration fund of the state water conservation board six and two-thirds per centum (6⅔%) of the net profits derived under the provisions of Chapter 255, Revised Codes of Montana, 1935, designated as the State Liquor Control Act of Montana, if and when received, but which per centum shall not exceed the sum aggregating ninety thousand dollars ($90,000.00).

(c) For the year ending March 1, 1938, for the conservation revolving fund of the state water conservation board twenty per centum (20%) of the net profits derived under the provisions of Chapter 255, Revised Codes of Montana, 1935, designated as the State Liquor Control Act of Montana, if and when received, but which per centum shall not exceed the sum aggregating three hundred thousand dollars ($300,000.00).

(d) For the year ending March 1, 1939, for the conservation revolving fund of the state water conservation board twenty per centum (20%) of the net profits derived under the provisions of Chapter 255, Revised Codes of Montana, 1935, designated as the State Liquor Control Act of Montana, if and when received, but which per centum shall not exceed the sum aggregating three hundred thousand dollars ($300,000.00).

In addition to the above appropriations, all monies to be paid to or to be repaid the state water conservation board from any source and not expressly appropriated to some other fund or purpose or hereby appropriated and all monies remaining in said conservation revolving fund on March 1, 1937, and all monies remaining in said administration fund on March 1, 1937, are hereby reappropriated.

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Section 2. Appropriations hereinabove provided shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 15, 1937.

HOUSE BILL NO. 409

An Act to Appropriate Money for the Payment of Certain Claims Arising Out of the Construction, Furnishing and Equipping of a Hospital Building and Dormitory at the State Tuberculosis Sanitarium, Galen, Montana, and for the Payment of Said Certain Claims Providing an Additional Request for Grant Is Not Allowed by the United States Government.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums or so much thereof as may be necessary, be, and the same are hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the purpose of paying claims arising out of the construction, furnishing and equipping the hospital building and dormitory at the state tuberculosis sanitarium, Galen, Montana, the sum of twelve thousand one hundred ten dollars and 28/100 .....$ 12,110.28

The same being more particularly itemized as follows:

Shiner Furniture Company .....$ 5,086.82

Lovering-Longbotham Company .....$ 7,023.46

Section 2. That the state board of examiners of the State of Montana be authorized to pay the above claims from this appropriation only in the event that the government of the United States refuses to furnish, as a grant, the additional money requested by the state board of examiners; and in the event that the federal grant is allowed then this appropriation shall be void and the money hereby appropriated used for no other purpose whatever, and the appropriation revert to the general fund of the State of Montana.

Section 3. The appropriation herein provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 16, 1937.

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HOUSE BILL NO. 411

An Act to Appropriate Money for the Operation and Maintenance of Certain Boards, Departments and Institutions, for the Fiscal Year Ending June 30, 1937, It Having Been Determined That the Appropriations Made by the Twenty-fourth Legislative Assembly Are Insufficient.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums or so much thereof as may be necessary, be, and the same are hereby appropriated out of any money in the state treasury, and from special funds enumerated herein, not otherwise appropriated for the objects and purposes hereinafter expressed, for the fiscal year ending June 30, 1937, it having been determined that the appropriations made by the Twenty-fourth Legislative Assembly are insufficient.

SCHOOL FOR DEAF AND BLIND AT BOULDER
FROM THE GENERAL FUND

For salaries and expenses, twenty thousand dollars....$ 20,000.00

TUBERCULOSIS SANITARIUM
FROM THE GENERAL FUND

For salaries and expenses, seventeen thousand dollars..$ 17,000.00

SOLDIERS' HOME
FROM THE GENERAL FUND

To complete utility building and for refrigeration, three thousand five hundred dollars .....$ 3,500.00

INDUSTRIAL SCHOOL
FROM THE GENERAL FUND

For salaries and expenses, four thousand five hundred dollars .....$ 4,500.00

VOCATIONAL SCHOOL FOR GIRLS
FROM THE GENERAL FUND

For salaries and expenses, fifteen thousand dollars.....$ 15,000.00

For repairing buildings at the vocational school due to earthquake damage, ten thousand dollars .....$ 10,000.00

ATTORNEY GENERAL
FROM THE GENERAL FUND

For salary of special attorney as legislative counsel, two hundred fifty dollars .....$ 250.00

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BOARD OF EQUALIZATION
FROM THE GENERAL FUND
INCOME TAX DEPARTMENT

For salaries, three thousand dollars .....$ 3,000.00
For expenses, two thousand dollars .....$ 2,000.00

GASOLINE LICENSE TAX DIVISION
FROM THE HIGHWAY FUND

For salaries, one thousand five hundred dollars.....$ 1,500.00
For expenses, five hundred dollars .....$ 500.00

The state board of examiners is hereby authorized to transfer from one account to another all funds appropriated for the state board of equalization by the Twenty-fourth Legislative Assembly upon request of the state board of equalization.

BUREAU OF CIVILIAN REHABILITATION
FROM THE GENERAL FUND

For maintenance of trainees, one thousand dollars.....$ 1,000.00
For tuition and training expenses, one thousand dollars .....$ 1,000.00

Section 2. The appropriations hereinabove provided for shall be deemed and held valid notwithstanding the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 9, 1937.

HOUSE BILL NO. 414

An Act to Appropriate Money for the Payment of Per Diem to the Officers and Attaches and for Incidental Expenses of the Twenty-fifth Legislative Assembly of the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or so much thereof as may be necessary, be, and the same are hereby appropriated, out of any money in the state treasury, not otherwise appropriated, for the objects and purposes hereinafter expressed, but for no other:

For the payment of per diem to the officers and attaches of the Twenty-fifth Legislative Assembly of the State of Montana, nine thousand dollars .....$ 9,000.00

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For the payment of incidental expenses of the Twenty-fifth Legislative Assembly of the State of Montana, six thousand dollars .....$ 6,000.00

Section 2. Any amount or amounts remaining in any appropriation for the Twenty-fifth Legislative Assembly may be transferred to supplement the amount or amounts remaining in any other appropriations for the Twenty-fifth Legislative Assembly; provided, that the aggregate amount of all such appropriations shall be neither increased or decreased.

Section 3. Appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 5, 1937.

HOUSE BILL NO. 416

An Act to Appropriate Money for the Operation and Maintenance of the Industrial Accident Board for the Period Ending June 30th, 1937, It Having Been Found That the Appropriations Provided by the 24th Legislative Assembly Were Insufficient for the Above Purposes.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums or so much thereof as may be found necessary, be, and the same are hereby appropriated out of any money in the state general fund, not otherwise appropriated for the objects and purposes hereinafter explained for the fiscal year ending June 30th, 1937.

INDUSTRIAL ACCIDENT BOARD
FROM THE GENERAL FUND

For salaries not fixed by law and other operating expenses .....$ 2,180.00

Section 2. It is the intent of this act that the appropriation contained herein, for the industrial accident board, are additional to the appropriations provided by the 24th Legislative Assembly, and the appropriations and transfers contained herein shall become

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a part of the original appropriations and operative under the same laws as the original appropriations which were provided by the 24th Legislative Assembly.

Section 3. The appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 11, 1937.

HOUSE JOINT MEMORIAL NO. 2

A Resolution Memorializing the Congress of the United States for the Passage of the Legislation for the Creation and Establishment of the Townsend Recovery Plan, and for Benefits to Be Paid to All Persons Over the Age of Sixty Years.

To the Honorable Senate and House of Representatives of the United States in Congress Assembled:

WHEREAS, There exists among employers of labor a widespread policy by which persons of over 45 years of age, willing and anxious to earn their livelihood are deprived of the opportunity of receiving employment; thus placing many such persons in a position of depending either upon friends or relatives or on public charity; and,

WHEREAS, Many of the persons thus deprived of an opportunity to earn their support are by means of this policy adopted and enforced by employers of labor, unable to support themselves by means of their own effort; and,

WHEREAS, Our social and economic welfare demand of the American people as a whole, that those, who, through no fault of their own, are thus deprived of the opportunity to earn a livelihood, be placed in a condition where their morale be sustained and they be neither made indigents or partakers of public charity; and,

WHEREAS, The burden of creating and maintaining the social and economic welfare is of greater magnitude than the State of Montana in common with other states, is able to carry on; and,

WHEREAS, There exists not only a widespread demand of persons over sixty years of age for the passage of legislation which will

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permit them to maintain their self respect, but there also exists an unusually strong demand of persons under the age of sixty years, that those who have pioneered in the building and development of our country be justly and adequately provided for in their declining years,

NOW THEREFORE BE IT RESOLVED By the house of representatives of the State of Montana, the senate concurring, that we do hereby petition the congress of the United States of America for the passage of the Townsend recovery plan into law, the said plan being deemed just and equitable to all persons over the age of sixty years.

BE IT FURTHER RESOLVED That a copy of this memorial be transmitted by the secretary of state of Montana to the senate and house of representatives of the congress of the United States and to the senators and representatives in congress from the State of Montana and they and each of them be requested to use all honorable means within their power to bring about the enactment of the Townsend recovery plan into law.

Approved February 9, 1937.

HOUSE JOINT MEMORIAL NO. 6

A Resolution Memorializing the Congress of the United States Requesting Enactment of Legislation Allowing the People of the State of Montana to Receive From the Federal Government Its Proportion of the Payments Made by Montana Employers to the Federal Government for the Year 1936 Under Title III and Title IX of the Federal Social Security Act.

To the Honorable Senate and House of Representatives of the United States in Congress Assembled.

Your memorialists, the members of the Twenty-fifth Legislative Assembly of the State of Montana, the house and senate concurring respectively, represent:

THAT WHEREAS, on August 14, 1935, the federal social security act was finally approved; and

WHEREAS, the federal social security act required contributions from employers in the State of Montana for the year 1936, said contributions to be returned in part to the people of the State of

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Montana, providing the State of Montana enacted proper legislation to so benefit; and

WHEREAS, the legislative assembly of the State of Montana was not in session from August 14, 1935, to and including January 4, 1937; and therefore, the State of Montana was unable to enact laws to allow it to receive the benefits to which it was entitled under Title III and Title IX of the federal social security act; and

WHEREAS, the legislative assembly of the State of Montana is now in session and is proceeding to pass the necessary legislation to comply with the federal social security act to thus enable the people of the State of Montana to receive the credits and benefits to which they are entitled to receive under the federal social security act.

NOW THEREFORE BE IT RESOLVED That it is the prayer of your memorialists that the congress of the United States enact legislation allowing the people of the State of Montana to receive the proportionate share of the payments made by Montana employers to the federal government for the year 1936, as was required under the federal social security act.

Approved March 11, 1937.

HOUSE JOINT MEMORIAL NO. 7

A Resolution Memorializing the Congress of the United States for the Passage of Legislation for the Construction of the Hungry Horse Dam on the South Fork of the Flathead River in the State of Montana, as a Flood Control Unit of the Columbia River Basin, and to Prevent Further Floods in Flathead County, Montana.

To the Honorable Senate and House of Representatives of the United States in Congress Assembled:

WHEREAS, For a number of years it has been evident that something should be done to prevent costly floods in the Upper Flathead Valley, in Flathead County, Montana, owing to the large amount of water that comes down each spring from the mountains to the east of the valley, through the main Flathead River, draining all the western slope of the Rocky Mountains from the Continental Divide, and

WHEREAS, This large amount of flood water coming down each spring has an effect on the dams now being constructed on the

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Columbia River, namely the Bonneville and Grand Coulee dams, and the holding back of the flood waters of the Flathead River would be of great benefit to the aforesaid named dams, in that such flood waters could be held back until the summer-time when the water is needed to keep up the head of such aforesaid dams, and

WHEREAS, the United States Geological Survey has made several surveys of what is known as the Hungry Horse dam site on the South Fork of the Flathead River and it has been found possible and feasible to impound possibly 2,000,000 acre feet in such proposed Hungry Horse reservoir, with potential electrical power to be generated at the dam to the extent of 94,000 horse-power, and that at least 150,000 acres of tillable land could be irrigated from said Hungry Horse dam, thereby providing for the people of the district above mentioned—the Upper Flathead Valley—for many years to come in the matter of electrical energy and irrigation, besides stopping forever the menace of costly floods in the valley, and

WHEREAS, The regional planning board, consisting of members from the four states of Washington, Oregon, Idaho and Montana, in session assembled at Missoula, Montana, June 21, 1936, unanimously passed a resolution urging the construction of the proposed Hungry Horse dam as a flood control measure in connection with the Columbia River Basin, the then chairman, Mr. Marshall Dana of Portland, Oregon, declaring that Hungry Horse dam should have been constructed before either the Grand Coulee or Bonneville dams on the Columbia River as a flood prevention measure,

NOW THEREFORE BE IT RESOLVED, By the house of representatives of the State of Montana, the senate concurring, that we do hereby petition the congress of the United States of America for the passage of an enabling act with sufficient appropriation of funds for the construction of the proposed Hungry Horse dam at the earliest possible time, as a flood control project.

BE IT FURTHER RESOLVED, That copies of this resolution be sent to the Honorable Franklin D. Roosevelt, president of the United States, to United States Senators Burton K. Wheeler and James E. Murray, Congressmen Jerry J. O'Connell and James F. O'Connor, and Hon. Roy E. Ayers, governor of the State of Montana.

Approved March 11, 1937.

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HOUSE JOINT MEMORIAL NO. 8

Memorializing the Honorable Franklin D. Roosevelt, President of the United States, the Honorable Burton K. Wheeler, the Honorable James E. Murray, Senators From the State of Montana, the Honorable Roy E. Ayers, Governor of the State of Montana, the Honorable Jerry J. O'Connell and the Honorable J. F. O'Connor, Members of Congress From the State of Montana, to the Honorable the Administrators of Public Works Administration of the United States, and to the Honorable the Members of the Water Conservation Board of the State of Montana.

To the Honorable Franklin D. Roosevelt, the Honorable Burton K. Wheeler, the Honorable James E. Murray, the Honorable Roy E. Ayers, the Honorable Jerry J. O'Connell and the Honorable J. F. O'Connor:

THAT WHEREAS, that certain dam project, known and designated as the Broadwater-Missouri project and listed under the federal administration works program docket as "Montana 1003" though submitted and urged has not yet been approved;

AND WHEREAS the conditions in relation to unemployment in the part of the State of Montana, and in which said project is to be constructed, is such that immediate steps to alleviate it and to employ man power should be taken;

AND WHEREAS the drouth stricken condition of certain lands in and about the proposed project are such as to cause many residents to remove therefrom and to relocate in the more fertile western parts;

AND WHEREAS the lands now under irrigation in the western part are entirely inadequate to take care of and to permit the locating of all such persons and families now located on lands in and about the said proposed project "Montana 1003";

AND WHEREAS the completion of said project 1003 will provide irrigation for twenty-five thousand acres of land in addition to lands now under irrigation in said district—a thing most devoutly to be wished;

AND WHEREAS it is of greatest importance to the welfare, happiness and prosperity of the people and families living in the vicinity of said proposed project numbered 1003 that the same be approved and rushed to completion at the earliest possible time;

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NOW THEREFORE, BE IT RESOLVED By the house of representatives of the State of Montana, the senate concurring, that we do hereby petition our above named members of congress and executives to devote their efforts toward the speedy completion of this project, and

BE IT FURTHER RESOLVED that a copy of this memorial be transmitted by the secretary of the State of Montana to the Honorable Franklin D. Roosevelt, president of the United States, the Honorable Burton K. Wheeler, the Honorable James E. Murray, the Honorable Roy E. Ayers, the Honorable Jerry J. O'Connell, the Honorable J. F. O'Connor, the public works administration of the United States, and the water conservation board of the State of Montana and that they and each of them, be requested to use all means within their power to bring about the approval of this project.

Approved March 11, 1937.

HOUSE JOINT MEMORIAL NO. 9

A Memorial to the Congress of the United States Requesting Enactment of the Harrison-Black-Fletcher Bill to Provide for Federal Support for Public Education.

To the Honorable Senate and the House of Representatives of the United States in Congress Assembled:

Your memorialists, the members of the Twenty-fifth Legislative Assembly of the State of Montana, the house and senate concurring, respectfully represent:

THAT WHEREAS, The economic organization of our country is now such as to remove wealth from one state to another before such wealth has contributed any part for the support of public schools. In Montana approximately one-third of wealth produced leaves the state before it can be taxed. Therefore the ability to support schools has been seriously reduced; and

WHEREAS, the Harrison-Black-Fletcher bill will restore part of this loss;

NOW, THEREFORE, BE IT RESOLVED, That it is the prayer of your memorialists that the congress of the United States enact the Harrison-Black-Fletcher bill for federal aid to education in Montana according to the provisions of said bill, and to be used

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as already provided in the present statutes for distribution of state funds for public schools.

Approved March 11, 1937.

HOUSE JOINT MEMORIAL NO. 11

A Resolution Memorializing the Interstate Commerce Commission of the United States and the Honorable Members of the Senate of the United States From Montana, Burton K. Wheeler and James Murray, and the Honorable Members of Congress From Montana, Jerry O'Connell and James O'Connor; Protesting the Granting of Reduced Freight Rates on Grain Originating in Canada and Destined to Points in Montana and Particularly Opposing the Continuation of Such Reductions.

WHEREAS, the continuation of reduced freight rates on Canadian grain entering the United States via Sweet Grass, Montana, tends to reduce the duty on grain by the interstate commerce commission instead of by duly constituted authority; the interstate commerce commission does not have the experience nor the data necessary in considering such tariff reductions, and the tariff is reduced in actuality when freight rates are reduced on commodities of Canadian or any other foreign origin, the cost of the commodity is lower and reflects on the markets which local commodities compete with; and

WHEREAS, it was agreed by all concerned to allow such reductions to exist only for the period between November 1st, 1936, and December 31st, 1936, the extension is a violation of that agreement and we protest the action of the interstate commerce commission in permitting this extension and respectfully request the immediate cancellation of such railroad tariff provisions which carry such reduced rates as the legal rate on grain from Canadian origins to Montana destinations;

NOW, THEREFORE, BE IT RESOLVED By the house of representatives of the State of Montana, the senate concurring, that we do hereby petition the United States senators, Burton K. Wheeler and James E. Murray, and Congressmen Jerry O'Connell and James F. O'Connor, to use all means at hand to bring about cancellation of the reduced freight rate now existing on grain entering the State of Montana from Canadian origins and that the chief clerk of the house shall be instructed to mail a copy of this memorial

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to each of the above named senators and congressmen and to the interstate commerce commission at Washington, D. C.

Approved March 11, 1937.

HOUSE JOINT MEMORIAL NO. 13

A Memorial for a Survey of the Yellowstone River in Montana to Determine the Best and Efficient Use of Its Waters and to Stabilize the Irrigated and Irrigable Lands in the Yellowstone River Basin and to Further Assist in the Control of Floods Along the Said Yellowstone River.

A memorial to the president of the United States, to the honorable secretary of the interior, to the president of the senate and speaker of the house of representatives, and to each member in congress from Montana, and to Governor Roy E. Ayers,

We, the members of the Twenty-fifth Legislative Assembly of the State of Montana, the senate and house concurring, respectfully represent:

WHEREAS, the provision of insuring an adequate supply of water for irrigation and domestic purposes is the most pressing problem in that section of Montana drained by the Yellowstone River, and

WHEREAS, during the present series of dry years there has been an insufficient available supply of water for the irrigation of areas now under ditch and to supply water for the reclamation of large areas of semi-arid land within the Yellowstone River Basin and immediately adjoining uplands thereof, and

WHEREAS, there is unappropriated and unused water in the basin of the Yellowstone River, which, if properly conserved and controlled to provide an ample supply of water for irrigation and reclamation purposes to the extent that not only the lands now under irrigation but also the vast areas thereof susceptible of irrigation and reclamation by the use of said waters to the extent that the agricultural and farming industry in this section of Montana could be rehabilitated and its permanency insured.

NOW, THEREFORE BE IT RESOLVED, that the Twenty-fifth Legislative Assembly of the State of Montana, the senate and house concurring, does hereby respectfully petition and request that the congress of the United States and the department of interior

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recommend the expenditure of at last one hundred fifty thousand dollars ($150,000.00) for the purpose of making a complete survey of the Yellowstone River Basin in order to determine the feasability of the various projects along said river to determine the method of best utilizing the waters of the said Yellowstone River for these purposes.

BE IT FURTHER RESOLVED, that copies of this memorial be mailed by the secretary of the State of Montana, to the president of the United States, to secretary of the interior, to the president and the speaker of the house of representatives, to each of the representatives in congress from Montana, and to Governor Roy E. Ayers.

Approved March 11, 1937.

SENATE JOINT MEMORIAL NO. 2

Introduced by Hammond and Angvick

A Memorial to the Congress of the United States Urging the Prompt Enactment of Legislation to Provide the Necessary Plans and Funds to Furnish Adequate Seed-Grain Supplies to the Needy Farmers of the State of Montana.

WHEREAS, owing to the fact that many of our farmers have suffered severe losses in recent years; wherein, abnormally low wheat prices of the early thirties have consumed all reserves had by the farmers; the unprecedented and recurrent drouth conditions, and also the cricket and grasshopper losses of the past several years in this State, have all contributed to the condition existing that there are a large number of farmers now unable to provide the necessary funds for planting crops in the 1937 season, which makes it imperatively important that seed loans be provided in time to enable the farmer to properly plan and plant his crop;

WHEREAS, in former years seed loans have not been made available to the farmer in proper time to be beneficial in the planting season, thus greatly reducing the opportunity to produce a crop which will enable him to repay the loan;

THEREFORE, BE IT RESOLVED by the senate and the house of representatives of the State of Montana, that we petition the United States congress that action be taken as soon as possible to establish seed loan agencies to receive applications and to make such seed loans in time to secure the seed necssary, not later than

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March 1, 1937, thus insuring the planting in the early season, and further petition that the United States congress immediately make a public announcement of its seed distribution and financial policy for 1937; and

BE IT FURTHER RESOLVED, that the secretary of state be and is hereby directed forthwith, after the passage and approval by the governor of this joint memorial, to transmit to the secretary of the senate and the secretary of the house of representatives of the congress of the United States, and to each of the senators and representatives of the State of Montana, and the secretary of agriculture, Washington, D. C., a true copy of this memorial.

Approved February 2, 1937.

SENATE JOINT MEMORIAL NO. 3

A Memorial Developing the Buffalo Rapids Project for the Purpose of Irrigating Lands With Water Diverted From the Yellowstone River in the Counties of Dawson, Prairie and Custer, and Further Providing the Stabilization of Farming and Stockgrowing Industry.

A memorial to the president of the United States, to the honorable secretary of the interior, to the president of the senate and speaker of the house of representatives, and to each member in congress from Montana.

We, the members of the Twenty-fifth Legislative Assembly of the State of Montana, the senate and house concurring, respectfully represent:

WHEREAS, along the Yellowstone River in Custer, Prairie and Dawson counties in Montana there are vast areas of fertile, cultivatable and agricultural land, which can be made irrigable and which lies in the midst of a large livestock range and grazing dominion long recognized as one of the most valuable and best adapted to the livestock industry on the continent; and

WHEREAS, recent years of drouth has proven beyond a doubt that to stabilize the livestock industry in eastern Montana, and to insure its livestock growers with a reasonable and economical supply of feed for their herds, more land must be placed under irrigation and the waters of rivers and streams serving this territory be made available therefor; and

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WHEREAS, the Buffalo Rapids Project, already defined and recognized, embracing lands in the Yellowstone Valley in the three counties herein mentioned, was conceived for the purpose of irrigating the above lands with water diverted from the Yellowstone River; that the lands reclaimed thereby would not increase but rather materially decrease the acreage now planted to wheat and other small grain and would place the same in livestock feed, sugar beet and small truck farm production. This result would greatly stabilize the local livestock industry and would permit many farmers recently removed from submarginal and arid lands to rehabilitate themselves and likewise provide work for farmers and workers now dependent upon relief; and

WHEREAS, a part of the preliminary survey of the Buffalo Rapids project has been completed but for lack of funds and other causes beyond the knowledge of your memorialists the said project has not been approved for final construction. Your memorialists recognize that this project is one of the most important in Montana, would have a far reaching effect, and would greatly add to the material worth and value of Montana as a whole, and to Eastern Montana in particular, and would insure its stockmen and farmers within its territory with permanent feed and means of existence against drouth. We further recognize that delay in its final approval and construction will greatly retard the repopulation of its adjoining ranges and will cause irreparable loss and injury to this section of the State of Montana;

NOW, THEREFORE, Be It Resolved: That the legislative assembly of the State of Montana, the senate and house concurring, does hereby respectfully petition and request that the congress of the United States and the department of the interior do, without further delay, approve and provide the necessary appropriation for the construction of the Buffalo Rapids Project in Montana; and

Be It Further Resolved, that copies of this memorial be mailed to the president of the United States, to the secretary of the interior, to the president of the senate and speaker of the house of representatives, and to each member in congress from Montana.

Approved February 25, 1937.

SENATE JOINT MEMORIAL NO. 4

A Resolution Memorializing the Congress of the United States; Endorsing the Passage and Approval of the Bill Introduced by

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the Honorable U. L. Burdick, United States Congressman, Providing for the Cancellation of Certain Feed and Seed Loans Heretofore Made by the United States Government, and Providing for an Appropriation Therefor Under the Provisions of the War Department Appropriation Bill.

To the Honorable Senate and House of Representatives of the United States in Congress Assembled:

Your memorialists, the members of the Twenty-fifth Legislative Assembly of the State of Montana, the senate and house concurring, respectfully represent as follows; that

WHEREAS, There is before the seventy-fifth congress, first session, a bill, House Resolution No. 207, providing for the cancellation of certain feed and seed loans heretofore made by the United States government, providing for an appropriation therefor under the provisions of the war department appropriation bill; that

WHEREAS, There exists throughout the State of Montana and other states of the union, a grave situation due to several years of drouth, grasshopper and cricket infestations, and past low prices in agricultural products; and

WHEREAS, These conditions make it impossible for many farmers and ranchers to ever repay the feed and seed loans; now, therefore,

BE IT RESOLVED, That hereafter, no claim shall be made by the United States against any persons for the debt created by the furnishing of feed and seed, as is hereinafter provided:

(a) Claims now held against farmers who are now receiving federal relief, either through the works progress administration or through direct grants by the government through the resettlement administration.

(b) Claims held against farmers whose liabilities exceed the amount of their assets by a fair valuation thereof according to existing prices and conditions.

(c) Claims held against farmers, secured or unsecured, where the forced collection of the same would prevent such farmer from continuing his usual and regular farming operations or the collection of which would render such farmer unable to properly protect his family under a decent and humane standard of living.

Whenever any farmer shall make written application to the farm credit administration showing himself entitled to relief from the

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debt created by federal feed or seed loans under the provisions of this act, said debt shall be cancelled if and when the farm credit administration shall be satisfied as to the truth of the material statements contained in said application.

Every farmer desiring to avail himself of the provisions of this act shall insert in said application his name, address, location of farm by legal description, his postoffice, the amount of the debt, when contracted, a list of his assets and liabilities; if receiving any form of relief, the nature thereof; if not on relief and having more assets than liabilities, his present financial situation; and a statement presenting in what way the collection of the debt will prevent him from continuing his usual and regular farming operations; and in what way the collection of the debt will render him unable to properly protect his family under a decent and humane standard of living. Said application shall be sworn to before an officer duly authorized to administer oaths.

Any person making false application under the provisions of this act shall be deemed guilty of felony and upon conviction thereof shall be sentenced to the federal penitentiary for a period not exceeding one year.

Whenever any farmer shall have complied with the provisions of this act in good faith, and the farm credit administration shall fail for a period of sixty days to cancel and discharge the debt, then in that case said applicant shall have the right to appeal from the action of the farm credit administration to the United States district court of the district of his residence. At such hearing before said court, after the evidence has been submitted, the court shall make its order either allowing or rejecting said application: Provided, That this one appeal shall be final in the premises.

For the purpose of carrying out the provisions of this act there is hereby appropriated, out of any funds not otherwise appropriated, the sum of sixty-five million dollars ($65,000,000.00), or as much thereof as may be necessary, to be available to the farm credit administration for the purpose of cancelling and discharging said obligations; provided, however, that in the annual war department appropriation bill for the year 1937 there shall be contained a provision for the appropriation of said sum of sixty-five million dollars ($65,000,000.00) and said appropriation shall be deemed and declared to be directly affecting our national defense.

Approved March 3, 1937.

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SENATE JOINT MEMORIAL NO. 5

A Joint Memorial to the Congress of the United States Requesting the Enactment of Appropriate Legislation for the Creation of the Fort Peck Power Authority.

To the Honorable Senate and House of Representatives of the United States of America in Congress Assembled:

WHEREAS, The congress of the United States has enacted legislation creating the Tennessee power authority which has been of great use and benefit to the many states served thereby; and

WHEREAS, The congress of the United States has enacted legislation for the creation of the Columbia River Valley authority to, among other things, operate power projects at Bonneville Dam, which, it is anticipated, will be a great factor in developing the adjoining territory; and

WHEREAS, Due to the engineering skill and efficiency of the army engineers headed by General Markham and Colonels Moore and Larkin, the great Fort Peck Dam will soon be completed; and

WHEREAS, The plans of this, the world's greatest earthen dam, which is being constructed for navigation, power, irrigation, flood control and soil erosion and costing over one hundred million dollars, provides for the construction and installation of a great power plant; and

WHEREAS, The territory appurtenant to this dam, vast and undeveloped, has great possibilities, and the State of Montana should anticipate the future and plan ahead of time to utilize to the best interest of all the people of the State of Montana, the potential possibilities made possible by this great dam; and

WHEREAS, much power will be needed to develop irrigation, manufacturing, carry on transportation and otherwise develop the natural resources of the enormous area adjoining the Fort Peck Dam;

NOW, THEREFORE, BE IT RESOLVED, by the senate, the house of representatives concurring, that the congress of the United States of America be respectfully urged and petitioned to enact legislation creating the Fort Peck power authority with powers and duties similar to that of the Tennessee Valley authority and the Columbia River valley authority, including the right of this authority as far as possible to carry out President Roosevelt's rural electrification program, to own, control and operate the power plants

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and projects, and transmission lines, and to do all things necessary to utilize for the best interest of the people as a whole the power facilities the dam will provide.

BE IT FURTHER RESOLVED, That a copy of this joint memorial be submitted by the secretary of state of Montana to the president of the United States, to both houses of the national congress and to the secretary of war and chief of the army engineers, and to each of the senators and representatives in congress from the State of Montana.

Approved March 11, 1937.

SENATE JOINT MEMORIAL NO. 6

A Joint Memorial to the Congress of the United States Requesting the Enactment Into Law the "Normal-Granary and Crop Insurance Program".

To the Honorable Senate and House of Representatives of the United States of America in Congress Assembled:

WHEREAS, On December 3, 1936, representatives of the wheat growers of the United States, assembled in Washington, D. C., and went on record sponsoring the so-called "ever normal-granary and crop insurance program"; and

WHEREAS, Certain farm organizations and farmers in the State of Montana believe that the so-called "ever normal-granary and crop insurance program", if enacted into law, will be of great benefit and use to the people of the State of Montana;

NOW, THEREFORE, BE IT RESOLVED, By the senate, the house of representatives concurring, that the congress of the United States of America be respectfully urged and petitioned to enact legislation putting into force this so-called "ever normal-granary and crop insurance program" with a fifteen-year average used as a basis instead of ten years; and

BE IT FURTHER RESOLVED, That a copy of this joint memorial be submitted by the secretary of state of Montana to both houses of the national congress and to the secretary of agriculture and to each of the senators and representatives of the State of Montana in congress.

Approved March 11, 1937.

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SENATE JOINT MEMORIAL NO. 7

A Resolution Memorializing the Congress of the United States; Providing for Extending the Time of the Present Interest Rate on All Federal Farm Loans.

To the Honorable Senate and House of Representatives of the United States in Congress Assembled:

Your memorialists, the members of the Twenty-fifth Legislative Assembly of the State of Montana, the senate and house concurring, respectfully represent as follows; that

WHEREAS, The continuance of drouth and insect pests during and through the growing season of 1936 has caused a continued hardship to exist on farmers and stockmen throughout Montana having loans from the federal land bank; and

WHEREAS, After June 30, 1937, the present interest rate of three and one-half per cent (3½%) on all federal farm loans will be discontinued and the old rate of interest apply; and

WHEREAS, The present rate on federal farm loans is four per cent (4%), while the majority of the old loans are from four and one-half per cent (4½%) to five and one-half per cent (5½%); now, therefore,

BE IT RESOLVED, That the seventy-fifth congress is hereby petitioned to extend the present rate of three and one-half per cent (3½%) on all federal farm loans for a two year period, to June 30, 1939.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded by the secretary of state to the president of the United States and to each of the senators and representatives of the State of Montana in congress.

Approved March 11, 1937.

SENATE JOINT MEMORIAL NO. 8

A Memorial to the Congress of the United States, the Secretary of Agriculture, and the Director of Budgets Requesting the Necessary Appropriation for the Continued Operation of the Dry Land Demonstration Stations at Moccasin and Huntley, Montana.

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To the Honorable Senate and House of Representatives in the Congress of the United States, the Honorable Secretary of Agriculture and the Honorable Director of Budgets:

Your memorialists, the members of the Twenty-fifth Legislative Assembly of the State of Montana, the senate and house concurring respectively, represent:

THAT WHEREAS, The dry land demonstration stations located at Huntley and Moccasin, Montana, have been in operation for many years and at each of said stations invaluable demonstrations and experimental work has been carried on for the benefit of those engaged in farming the semi-arid lands in Montana and such stations have proved to be of great assistance to many people of Montana and elsewhere; and

WHEREAS, The said demonstration stations have been and are being operated on a cooperative plan with the State of Montana in which the State of Montana matches funds appropriated by the United States for said stations; that the money appropriated by the United States for both of said stations amounts to the sum of eight thousand dollars ($8,000.00) annually and all of the national appropriation is expended for salaries; and

WHEREAS, It has come to the attention of your memorialists that the current budget prepared by the director of budgets omits and eliminates the appropriation for the continued operation of the above said stations in Montana, which if not restored will result in the closing of the same; and

WHEREAS, Conditions in the localities served by the said stations, the great need to continue the experimental and demonstration work at said stations, to improve farming methods, and to propagate or experiment with drouth resisting grasses and grains and other forage crops and to render assistance in the resettlement plans now being carried on by the government of the United States makes the continued operation of the above said stations necessary and imperative and to now close, or to anywise hamper their operation would result in great loss to those dependent on the result of their experimental work.

NOW, THEREFORE, BE IT RESOLVED, That the necessary appropriation for the continued operation of the aforesaid dry land demonstration stations be provided in the proper budget therefor, and that the secretary of agriculture continue to operate the said stations in conjunction with the State of Montana; and

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BE IT FURTHER RESOLVED, That a copy of this memorial be forwarded to the president of the senate, the speaker of the house of representatives, to each member in congress from Montana, to the secretary of agriculture and to the director of budgets.

Approved March 11, 1937.

SENATE JOINT MEMORIAL NO. 9

A Resolution Memorializing the Congress of the United States to Enact Legislation Designating the 11th Day of November (Armistice Day) a National Holiday.

To the Honorable Senate and House of Representatives of the United States in congress assembled:

Your memorialists, the members of the Twenty-fifth Legislative Assembly of the State of Montana, the senate and house concurring, respectfully represent as follows; that

WHEREAS, The 11th day of November (Armistice Day) is a legal holiday in thirty-six states of the United States;

BE IT RESOLVED, That the congress of the United States enact legislation designating the 11th day of November (Armistice Day) a national legal holiday.

BE IT FURTHER RESOLVED, That copies of this memorial be mailed to the president of the United States and to each member of congress from Montana.

Approved March 11, 1937.

HOUSE JOINT RESOLUTION NO. 1

A Resolution Requesting the State Examiner to Make a Study of the Methods and Forms Used in Relation to Assessment, Levy and Collection of Taxes and Authorizing and Directing the State Board of Equalization to Prescribe Uniform Forms and Methods for the Keeping of Records for the Assessment, Levying and Collection of Taxes in the Several Counties of the State of Montana.

Be It Resolved by the House of Representatives, the Senate Concurring:

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WHEREAS, the present system and method and form of records for the assessment, levying and collection of taxes within the several counties of the State of Montana is such that the keeping thereof is a matter of excessive expense to each of said counties and that such procedure after careful study may be simplified and thus be a saving to each of the several counties of the State of Montana; and

WHEREAS, the state examiner and the state board of equalization each are vitally interested in the form and method of the procedure for the levying and collection of taxes; therefore be it,

RESOLVED, that the state examiner be and is hereby requested and directed to make a thorough study of the forms and methods now used for the assessment, levying and collection of taxes in the several counties and that such modification and amendments to such procedure be recommended, as well as simplifying such procedure will enable such records to be kept completely by the several counties in the forms thereof; and that the state examiner upon completion of his recommendations in relation thereto, submit the same, together with proposed forms to be used in connection therewith, to the state board of equalization for their consideration and adoption; and be it further

RESOLVED, that the state board of equalization be and is hereby authorized and directed at as early a date as possible after receiving the recommendation of the state examiner, in relation to the forms and procedure for the assessment, levying and collection of taxes, to make an order establishing a uniform form throughout the State of Montana in order that the method of the levying, assessment and collection of taxes may be simplified, to the end that economy of administration may result therefrom; and be it further

RESOLVED, that after the passage and approval of this resolution a copy of the same be transmitted to the state examiner and to the state board of equalization.

Approved February 10, 1937.

HOUSE JOINT RESOLUTION NO. 2

A Resolution Empowering the Chairman of the Social Security Committee in the House of Representatives, and the Chairman of the Relief and Social Welfare Committee in the Senate to

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Engage and Employ Temporarily, an Expert to Assist in Devising and Drafting Present Social Security Legislation.

Be It Resolved by the House of Representatives, the Senate Concurring:

That the chairman of the social security committee of the house of representatives, and the chairman of the relief and social welfare committee of the senate of the Twenty-fifth Legislative Assembly be, and are hereby empowered to employ temporarily an expert to assist in the drafting and devising of social security legislation. Such expert to receive compensation at the rate of eight dollars ($8.00) for each day of employment.

Approved February 8, 1937.

HOUSE JOINT RESOLUTION NO. 3

A Joint Resolution Memorializing the Year 1939 as Montana's Year of Anniversaries, Providing for Proper Observance Thereof, Establishing a Commission to Create and Promulgate a Program Therefor and Inviting Statewide Participation by All Citizens Therein.

WHEREAS The year 1939 may appropriately be and hereby is designated Montana's year of anniversaries, notably—

The Semi-Sesqui-Centennial—75th—Anniversary of the creation of the Territory of Montana by act of congress, approved May 26th, 1864 by President Abraham Lincoln;

The Semi-Centennial—50th—Anniversary of the creation of Montana as a state and its admission into the union in this sequence of events: The approval of the enabling act on February 22, 1889, by President Grover Cleveland, the assembling of the constitutional convention at Helena on July 4, 1889, the adoption of the constitution by the people at the election of October 1, 1889, and the proclamation declaring Montana a state, promulgated by President Benjamin Harrison on November 8, 1889; and, the year 1939 will also mark the anniversaries of historical events antecedent to such fundamental political acts, all of which marked the rough road to national recognition and state sovereignty, particularly

The 110th anniversary of the building of Fort Union by Kenneth McKenzie at the mouth of the Yellowstone River in 1829, being the first permanent trading post of the fur traders in Montana.

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The 100th anniversary of the journey in 1839 of the Flathead Indian party to St. Louis to obtain "the white man's book"—the Holy Bible, which inspired action in the dispatch of missionaries to the Indians of Montana; and later brought to all humans in the great wilderness, the blessed ministrations of the "Black Robes", the heroic Jesuits.

The 90th anniversary of the creation of Oregon Territory in 1849, wherein was included that portion of Montana west of the Rocky Mountains, thereby finally uniting all of the territory now within the boundaries of Montana under the American flag.

The 80th anniversary of the beginning of the steamboat era on the Missouri River, marked by the arrival of the steamboat Chippewa at Fort Brule, a few miles below Fort Benton on July 1, 1859; and,

The general observance of these important events in the history of our commonwealth should be commemorated in the manner becoming an enlightened and patriotic people, the true significance of such events understood, all with the purpose of renewing appreciation of our heritage and establishing a conscious statewide solidarity among our citizens in the presence of such heritage and in the promise of even greater realizations in the days to come:

THEREFORE, BE IT RESOLVED By the house of representatives of the Twenty-fifth Legislative Assembly of the State of Montana, the senate concurring, that there is hereby created a commission to be known as the 1939 anniversaries commission and to be comprised of the governor, the attorney general, the secretary of state, the superintendent of public instruction, the president of the State University of Montana, the president of the Society of Montana Pioneers and the secretary of the state historical library, and Dr. J. M. Hamilton of Montana State College, member at large.

The said commission shall organize on or before January 25th, 1938, by electing the governor as president, and the secretary of the state historical library as secretary thereof. It shall be the duty of said commission to plan and carry into effect the celebration of said events throughout the State of Montana in the year 1939; and to enlist in a proper and wholehearted observance of such anniversaries and the plan of said commission, all civic, patriotic and service organizations, and historical societies, and to receive from such organizations and citizens of the state generally, any suggestions or recommendations which may be submitted to it, and to take such steps as may be necessary in the coordination and correlation of plans, suggested and prepared throughout the

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state. The plans shall provide for celebration of such events in each county of the state, upon dates therefor to be fixed by the commission pursuant to arrangements made with the boards of county commissioners of the several counties of the state, and upon the 4th day of July, 1939, a statewide celebration at such location as the commission may appoint.

That the governor be, and he is hereby requested to issue on the 1st day of January, 1939, a formal proclamation inaugurating 1939 as Montana's year of anniversaries and therewith promulgate to the people of Montana an address relative to the meaning of the year in the history of the state.

The commission is hereby further invested with authority (1) to accept gifts, grants and donations in trust for carrying out the purposes of this act, funds accruing therefrom if any, to be carried in a special trust account to be disbursed through the state treasurer as accounting officer on claims approved by the commission and subject to any limitations imposed thereon by the donors; (2) to coordinate the activities of said commission and its plans for proper celebrations in the year 1939 with other fairs or expositions national in character proposed for and to be held in 1939, with special reference to travel between said fairs and expositions and (3) to study the matter of, and to submit to the 26th Legislative Assembly of Montana plans for a permanent Montana exposition statewide in character and (4) to accept, without monetary liability on the part of the state, any grants of federal aid or assistance in monies, in kind, or in labor in connection with any undertaking herein authorized.

BE IT FURTHER RESOLVED That there is hereby enjoined upon the authorities in charge of, the Greater University of Montana, its constituent colleges and all the public schools of the state, the duty to cause appropriate commemorative writings, convocations and exercises to be held in celebration of the creation of the Territory of Montana on May 26th, the adoption of the enabling act on February 22nd and the admission of the state into the union on November 8, in the year 1939, and to cause a copy of this resolution to be promulgated and posted in all the schools in the state.

Approved March 11, 1937.

HOUSE JOINT RESOLUTION NO. 4

A Resolution Requesting Congress of the United States to Bring About the Ratification of the Treaty Relating to a Through

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Seaway Via the St. Lawrence River and Requesting Immediate Action in This Regard on the Part of the President of the United States.

To the Honorable Senate and the House of Representatives of the United States of America, and the Honorable President of the United States of America:

WHEREAS, Economical authorities in the United States and Canada, acting officially both as joint commissions and severally, have repeatedly and unanimously declared that enlarging the connecting channels of the Great Lakes and St. Lawrence River to admit uninterrupted movement of ocean borne commerce from and into the Great Lakes, is economically sound and necessary to raise the competitive position, establish economic equality, permit future development and effect the return of prosperity to the vast continental areas of both countries, and

WHEREAS, Over the past years diplomatic correspondence has brought the two nations into agreement on the assignment of tasks and division of costs, said correspondence having allocated to the United States the construction and cost of all improvements in international waters, which includes the deepening to twenty-seven feet of the connecting channels of the upper Great Lakes, a new lock at the Soo corresponding in dimensions to the locks in the New Welland Ship Canal and the improvement of the international stretch of the St. Lawrence River from Lake Ontario to the forty-fifth parallel (opposite Cornwall), where the river ceases to form the boundary line between the two countries, and allocating to Canada the completion of the New Welland Ship Canal and the improvement of the river from the forty-fifth parallel aforesaid to the sea, and

WHEREAS, Approximately one-half of the tasks assigned to each government has either been completed, is in process of completion or already authorized by one of other of the two governments, and approximately one-half of the total cost of the through seaway has either been expended, in process of being expended or involved in authorizations already made, all of which have been carried out and are capable of being completed without any treaty, and

WHEREAS, Engineering authorities in Canada and the United States, acting officially both as joint boards and severally, have agreed upon engineering plans and costs and unanimously declared that the International Rapids section (forty-eight miles) of the

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St. Lawrence River, extending from Ogdensburg to the international boundary must, for economic reasons, be developed for navigation and power jointly, and

WHEREAS, No development of this International Rapids section of the river can be undertaken by either country or any agency in either country without an agreement or treaty appropriate thereto, having first been entered into between Canada and the United States, and

WHEREAS, The landlocked interior of the United States is deeply concerned and in emergent need of the relief which would accrue to that area by the opening of such seaway and the citizens of New York state also are directly interested in the improvement and early utilization of the large reservoir of cheap power which would be made available by such joint development, and

WHEREAS, the need exists for a formula or plan that will effect the development of this section of the river for navigation and power at the earliest possible date, by employing the most practical, the most expeditious and best agency or agencies for that purpose.

THEREFORE BE IT RESOLVED, By the house of representatives of the State of Montana, the senate concurring, that the president of the United States be and is hereby requested to utilize his offices for the ratification of the treaty with Canada calling for the development of the aforesaid International Rapids section of the St. Lawrence River at the earliest possible date and in accordance with the plans agreed upon by the joint board of engineers, or such amendment to or changes in said plans as may be subsequently adopted.

BE IT RESOLVED, That in such improvement all permanent works such as dams and navigation works be constructed by the governments of the United States and Canada, along the general lines of assignment of tasks and division of costs outlined in the pending treaty between the two countries, but not the power house, superstructures of installation of power machinery, and

BE IT FURTHER RESOLVED, That the senate of the United States be and is hereby requested to ratify the necessary preliminary legislation declaring all lands and the entire flow of the St. Lawrence River, extending from the shore to the international boundary line in the river, from Lake Ontario to the forty-fifth parallel, where the river ceases to form the boundary between the two nations, necessary for the purposes of navigation of said waters and the waters connected therewith, and

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BE IT FURTHER RESOLVED, That a copy of these resolutions be spread upon the journal of the house, and that a copy thereof properly attested by the speaker and the clerk of the house, be transmitted by the secretary of state to the senators and representatives in congress from Montana, and a copy to the president of the United States.

Approved March 11, 1937.

SENATE JOINT RESOLUTION NO. 1

Introduced by Meyer, Simmons, and Foor

A Joint Resolution Providing for the Employment of Additional Help During the Twenty-fifth Legislative Session of the State of Montana.

WHEREAS, It is necessary and desirable that the senate have a competent law clerk for the purpose of assisting the members of the Twenty-fifth Legislative Assembly of the State of Montana in looking up laws and in the drafting of bills and resolutions and otherwise assisting and advising the members of the Twenty-fifth Legislative Assembly of the State of Montana in connection therewith and generally with other matters that will come before said assembly for attention and consideration; and,

WHEREAS, The attorney general of the State of Montana, has advised the employment committee of the senate that, on account of press of business in his office, he will not be able to render to members of the Twenty-fifth Legislative Assembly as much assistance as his office has heretofore rendered in assisting and advising members of the legislative assembly, and in the drafting of bills and resolutions for introduction by them; and,

WHEREAS, Such an emergency and extraordinary condition has arisen as is contemplated by Section 77 of the Revised Codes of Montana, 1935, which render this course and action necessary for the orderly and expeditious conduct of the business of the Twenty-fifth Legislative Assembly, therefore be it,

RESOLVED, By the senate of the State of Montana, the house of representatives concurring, that the employment committee of the senate be, and hereby is, authorized and empowered to employ a suitable and competent person as law clerk for the remainder of the Twenty-fifth Legislative Session at a salary of not to exceed

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ten dollars ($10.00) per day for his services, and that the duties of said law clerk shall be to assist and advise the members of the senate of the Twenty-fifth Legislative Assembly in looking up laws and in checking up on bills and resolutions and in the formulating and drafting of bills and resolutions to be brought before the Twenty-fifth Legislative Assembly for attention and consideration and otherwise as may be required by the senate.

Approved January 30, 1937.

SUBSTITUTE FOR SENATE JOINT RESOLUTION NO. 3

Introduced by Committee on Employment of the Senate

A Joint Resolution Declaring an Emergency to Exist and Providing for Compensation and Additional Help During the Twenty-fifth Legislative Assembly of the State of Montana, Pursuant to Section 77, Revised Codes of Montana, 1935, Relative to the Appointment of Additional Help in the Senate and House of Representatives.

Be It Resolved by the Senate of the State of Montana, the House of Representatives Concurring:

WHEREAS, The economic conditions and the relief situation now existing, the need for social security legislation, tax legislation and other important legislative problems, and numerous other and divers matters which are now urgently requiring the attention of the members of this legislative assembly, make it necessary, expedient and desirable that the house and senate each have additional help and employees in addition to those officers and employees enumerated in Sections 62 and 63, Revised Codes of Montana, 1935, and

WHEREAS, Such facts and conditions have created such an emergency and extraordinary condition as is contemplated by Section 77 of the Revised Codes of Montana, 1935, which emergency and extraordinary condition renders this course and action necessary for the orderly and expeditious conduct of the business of this legislative assembly;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA, AND THE HOUSE OF REPRESENTATIVES CONCURRING,

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That such an emergency and extraordinary condition as is contemplated by Section 77 of the Revised Codes of Montana, 1935, has arisen and does now exist, and

BE IT FURTHER RESOLVED That the senate and the employment committee of the senate be and the same are hereby expressly authorized and empowered to pay and employ in the senate the following officers and employees, in addition to those enumerated in Section 62, Revised Codes of Montana, 1935, namely:

One third assistant sergeant-at-arms at eight dollars ($8.00) per day;

One assistant bill clerk, one clerk to the sergeant-at-arms of the senate, one clerk to the president of the senate and one mailing clerk at six dollars ($6.00) per day each;

Also, in addition to the foregoing, additional clerks or stenographers, not exceeding ten in number, at five dollars ($5.00) per day each;

BE IT FURTHER RESOLVED That the house of representatives and the employment committee thereof, be and the same are hereby expressly authorized and empowered to pay and employ in the house, the following officers and employees, in addition to those enumerated in Section 63, Revised Codes of Montana, 1935, namely:

One house law clerk at ten dollars ($10.00) per day;

One assistant chief clerk and one assistant sergeant-at-arms at eight dollars ($8.00) per day each;

Two assistant house law clerks at seven dollars ($7.00) per day each;

One clerk to the speaker of the house, one secretary to the chief clerk of the house, one assistant bill clerk and one mailing clerk at six dollars ($6.00) per day each;

Three clerks to the sergeant-at-arms, one assistant secretary to the chief clerk of the house, six doorkeepers, three assistant janitors, six watchmen, two elevator operators, two telephone operators, one clerk to the judiciary committee of the house, one clerk to the appropriation committee of the house, and also, in addition to the foregoing, additional clerks or stenographers, not exceeding eighteen in number, at five dollars ($5.00) per day each.

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SENATE JOINT RESOLUTION NO. 4

Introduced by Committee on Stockgrowing and Grazing

Opposing Change of Laws Governing Importation of Livestock From Argentine.

WHEREAS, The Argentine government and the state department of the United States government have negotiated a sanitary convention which has for its purpose the removal of the present sanitary regulations governing the importation of live stock or live stock products from any territory or zone in the Argentine which has temporarily been declared to be free from foot and mouth disease; and

WHEREAS, The Argentine and other republics of South America do not maintain a live stock sanitary organization comparable to the United States bureau of animal industry; and

WHEREAS, The Argentine government has never inaugurated or carried on a systematic program for the eradication of foot and mouth disease, such as has been done by the United States bureau of animal industry; and

WHEREAS, There is grave danger of foot and mouth disease virus being carried by live stock or live stock products from any country where foot and mouth disease exists; and

WHEREAS, If foot and mouth disease ever became endemic in the State of Montana it would contaminate domestic and wild animals on the open plains, the deserts, and mountain regions of the west, would spread infection and be uncontrollable, with the probable effect of almost annihilating both domestic and wild animals, thus destroying the meat food supply of our nation and one of our major industries, and bring financial disaster to the great majority of our citizens; and

WHEREAS, Such sanitary pact is now before the foreign relations committee of the senate of the United States for ratification;

NOW, THEREFORE, BE IT RESOLVED That the Twenty-fifth Legislative Assembly of the State of Montana, both houses concurring, respectfully petition the foreign relations committee of the Senate of the United States that they do not recommend the ratification of the sanitary convention now pending before its body; and

BE IT FURTHER RESOLVED, That we petition the Honorable Burton K. Wheeler and James E. Murray, Congressmen James F.

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O'Connor and Jerry J. O'Connell, Secretary of State Cordell Hull, and President Franklin D. Roosevelt to use their every endeavor to defeat the ratification of this sanitary pact with the Argentine and that they vigorously oppose any modification of the existing federal laws governing the movement of live stock or live stock products from any country where foot and mouth disease exists.

Approved January 30, 1937.

SENATE JOINT RESOLUTION NO. 5

Expressing Assent of the Legislature of the State of Montana to the Provisions and Purpose of the Bankhead-Jones Act of June 29, 1935, (Public-No. 182-74th Congress).

WHEREAS, There has been enacted by the senate and house of representatives of the United States of America in congress assembled, an act to provide for research into basic laws and principles relating to agriculture and to provide for the further development of cooperative agricultural extension work and the more complete endowment and support of land-grant colleges, approved June 29, 1935, (Public-No. 182-74th Congress), and

WHEREAS, The provisions of the act and the purpose of the grants of money authorized by the act are made subject to the legislative assent of the several states and territories,

THEREFORE, BE IT RESOLVED By the senate of the legislature of the State of Montana, the house of representatives concurring, that the assent of the legislature of the State of Montana, required by the said act, be and the same is hereby given.

Approved February 9, 1937.

SENATE JOINT RESOLUTION NO. 6

A Resolution Requesting the Governor of the State of Montana to Appoint a Commission to Make a Study of Occupational Diseases and Particularly Silicosis in the State of Montana, and to Make Recommendations to the Twenty-sixth Legislative Assembly at Its Session in 1939 of Legislation Relating Thereto.

Be It Resolved by the Senate of the State of Montana, the House of Representatives Concurring:

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WHEREAS, Diseases arising out of and in the course of employment commonly known as occupational diseases have caused, and are causing, widespread public interest and concern, and are of general public interest in the State of Montana; and

WHEREAS, By reason of the complex nature of the diseases themselves, and the causes thereof, and the difficulty of analyzing the present extent, nature and effect of such diseases in relation to the various occupations and employments in which contracted, it is difficult or impossible in ordinary legislative deliberation to arrive at satisfactory scientific and equitable conclusions as to legislation relating thereto; and

WHEREAS, The industries involved are in competition with similar industries in other states, and the proper solution of the problem involves the study of legislation of such other states, and the industries therein; therefore be it

RESOLVED, That the governor of the State of Montana, be, and is hereby requested to appoint a commission to make a study of occupational diseases, and particularly silicosis, in the State of Montana, and to make recommendations to the Twenty-sixth Legislative Assembly at its session in 1939 of legislation relating thereto; that said commission be directed to prepare and file with the governor prior to said legislative session, its recommendations, and if such commission shall find that legislation relating to occupational diseases is desirable, to file with such recommendations a draft of such legislation for the consideration of said legislative session; and be it further

RESOLVED, That such said commission shall consist of two representatives of labor, two representatives of the industry or industries principally concerned, and that the fifth member, who shall also be chairman, shall be the secretary of the state board of health; and be it further

RESOLVED, That after the passage and approval of this resolution, a copy of the same be transmitted to the governor of the State of Montana; and be it further

RESOLVED, That the said commissioners, other than the chairman of the state board of health, shall each receive for their services the sum of ten dollars ($10.00) per day and all reasonable and necessary expenses incurred for transportation and subsistence for each and every day that they are engaged in the work designated under this act; and be it further

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RESOLVED, That the sum of five thousand dollars ($5,000.00), or so much thereof as may be necessary, is hereby appropriated out of any money in the state treasury, not otherwise appropriated, to pay the salary of the said commissioners and all other necessary expenses.

Approved March 11, 1937.

SENATE JOINT RESOLUTION NO. 7

A Joint Resolution to Provide for the Appointment of a Joint Committee to Conduct an Investigation Into the Methods and Practices of the State Auditor and the Ex-Officio Commissioner of Insurance to Determine the Standing and Report the Administration of the State Insurance Law, and the Handling of Policies Under Such Act, and of the State Board of Examiners as to the Insurance on State Property and to Investigate the Reinsurance Contract and Authorizing Said Committee to Hold Hearings, Subpoena Witnesses, Take Testimony, and Report Its Findings to the Senate and the House of Representatives.

WHEREAS, The Twenty-fourth Legislative Assembly of the State of Montana enacted a law, "An act to provide for the State of Montana to engage in the business of writing fire insurance and providing for the underwriting of such insurance, and establishing rates and conditions under which state fire insurance may be written; and,

WHEREAS, The validity of the state insurance act, and the provisions thereof was presented to the supreme court of the State of Montana, and certain provisions of the act held to be inapplicable; and,

WHEREAS, A petition was filed with the secretary of state as provided for in Article V Section 1 of the constitution of the State of Montana, seeking to make the law inoperative; and,

WHEREAS, Under the provisions of Article V Section 1 of the State of Montana, the state insurance act was submitted to the voters of the state at the last general election of the State of Montana, and at said general election the act was not approved but set aside by the voters of the state; and,

WHEREAS, Because of these various actions concerning the state insurance act, the insurance committee of the senate of the

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Twenty-fifth Legislative Assembly is unable to ascertain the rate making policy as used by the commissioner of insurance; and,

WHEREAS, Your committee believes that the key to the solution of many of the perplexing problems confronting the insurance committee can be ascertained by a thorough investigation of the office of the state auditor and state auditor as insurance and investment commissioner, and that such investigation is necessary to the end that the true status of the insurance policies issued to the state and its subdivision may be clearly understood by your committee, further to the end that the state and its subdivisions may be properly protected from loss by the enactment of legislation dealing with the conditions arising out of the insurance act of the Twenty-fourth Legislative Assembly;

NOW, THEREFORE, BE IT RESOLVED, By the senate of the Twenty-fifth Legislative Assembly of the State of Montana, the house concurring, that the president of the senate appoint a special committee of three from among the members of the standing insurance committee of the senate and that the speaker of the house appoint a like committee of three (3) from the standing insurance committee of the house, to act as a joint committee to make such investigation as said committee may deem advisable for ascertaining of the true facts relative to any and all facts or conditions which may in any way be relative to the matter of the state insurance act and its relation to all fire insurance companies doing business in the State of Montana, and the method, procedure, acts and practice employed by the state auditor, insurance commissioner, and investment commissioner, that the status of the policy holders may be fully known.

BE IT FURTHER RESOLVED, That said committee shall immediately organize and it shall be given all necessary facilities of the senate and house as to rooms, equipment, clerical and other assistants; said committee shall keep a complete record of its proceedings and investigations and render to the senate and house a comprehensive report of its findings and recommendations at such times as it may deem proper, and shall not later than the fiftieth legislative day submit its final report;

BE IT FURTHER RESOLVED, That such committee shall be authorized to employ necessary aid in ascertaining the facts desired and shall be authorized and empowered to subpoena all necessary witnesses, and to take such testimony as it may deem proper and necessary, touching upon the matters and conditions and possible remedies relative to the state insurance act within the state; and

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said committee is hereby authorized to incur such expense as will be necessary to properly make such investigation, and to pay witnesses subpoenaed by it;

BE IT FURTHER RESOLVED, That said committee be authorized and empowered to require the attendance of any and all witnesses necessary to the performance of its duty and said committee is authorized and empowered through its chairman to issue subpoenas to require the attendance of any person or persons to testify, under oath, and to produce for examination by said committee any books, papers and other documentary evidence of any nature or character under the control of such person or persons, and said committee is authorized and empowered to require the sheriff of any county of the State of Montana to serve subpoenas issued by it;

BE IT FURTHER RESOLVED, That all items of expense be returned by said committee with its report, and that the sergeant-at-arms of the senate be, and he is hereby, instructed and authorized to pay any and all sums necessarily incurred by said committee out of the appropriation made by the Twenty-fifth Legislative Assembly for incidental expenses upon the presentation to him of a proper voucher signed by the payee and approved by the chairman of the said committee and the president of the senate.

Approved February 20, 1937.

SENATE JOINT RESOLUTION NO. 9

A Resolution Requesting the Department of Agriculture to Invoke Certain Rules and Regulations Under Which the Marketing Agencies and Dealers Operate.

WHEREAS, Under Montana laws and practices, it is customary for Montana stockmen to ship cattle to several primary markets, subject to brand inspection at destination, where the State of Montana maintains brand inspection, so that proper ownership may be determined; and

WHEREAS, This has necessitated the making of agreements with the exchanges of the several livestock markets, whereby the instructions given by the Montana brand inspectors at such markets shall govern the disposition of all proceeds from the sale of Montana cattle; and

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WHEREAS, This arrangement has worked satisfactorily for many years at all primary markets with the exception of the market at South St. Paul, Minnesota; and

WHEREAS, The Montana livestock commission in an attempt to eliminate delays and difficulties and in some cases apparent fraud encountered in the handling of the proceeds from the sale of Montana cattle in South St. Paul, entered into a specific and satisfactory agreement with the South St. Paul livestock exchange, whereby it was agreed that the proceeds from the sale of Montana cattle would be handled in a manner agreeable to both the Montana livestock commission and the selling agencies concerned; and

WHEREAS, Certain members of the South St. Paul Exchange handling a large volume of Montana cattle shipments have violated the said agreement and are holding or have disposed of proceeds of certain cattle, the ownership of which has not been satisfactorily proven; and

WHEREAS, The commission firms complained of here are authorized to do business by the packers and stockyards division of the United States department of agriculture;

NOW, THEREFORE BE IT RESOLVED, THAT

1. The packers and stockyards division of the bureau of animal industry of the United States department of agriculture be urged to invoke the rules and regulations under which the marketing agencies and dealers operate.

2. That the packers and stockyards division of the bureau of animal industry of the United States department of agriculture be urged to make an immediate and complete investigation of certain commission firms operating at South St. Paul, the names of which will be furnished by the Montana livestock commission, to determine by what authority certain funds from the sale of Montana cattle are being held or have been disposed of.

3. That the packers and stockyards division of the bureau of animal industry of the United States department of agriculture be urged to immediately cause the release at the earliest possible time of the proceeds from the sale of Montana cattle held, or reimbursement of any proceeds disposed of contrary to the provisions of the said agreement between the South St. Paul Livestock Exchange and the Montana livestock commission.

4. That copies of this joint resolution be forwarded to the president of the United States, the secretary of agriculture, Senators Wheeler and Murray and Congressmen O'Connor and O'Connell,

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the chief of the bureau of animal industry, and the South St. Paul Livestock Exchange and the South St. Paul Livestock Exchange and the South St. Paul Stockyards Company.

Approved March 9, 1937.

CHANGES OF NAMES REPORTED 1935 AND 1936

Date of Judgment	Original Name	Name Decreed	Residence
July 27, 1935.	Peder Martin Lindwaldsen	Peter Martin Peterson	Anaconda, Mont.
Nov. 19, 1935.	Joseph Dinocenzo	Joseph Arthur Marlo	Haugan, Mont.
Dec. 24, 1936.	Jimmy Walker	Jimmy Welch	Corvallis, Mont.
Jan. 4, 1937.	Robert H. Chambers	Robert H. DeLong	Tarkio, Mont.
Jan. 4, 1937.	Bernard P. Chambers	Bernard P. DeLong	Tarkio, Mont.
Jan. 4, 1937.	John P. Palubicki	John P. Paulbeck	Plentywood, Mont.
Jan. 4, 1937.	Frances Palubicki	Frances Paulbeck	Plentywood, Mont.
Jan. 4, 1937.	Edward Palubicki	Edward W. Paulbeck	Plentywood, Mont.
Jan. 4, 1937.	Norman W. Palubicki	Norman W. Paulbeck	Plentywood, Mont.

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APPENDIX

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APPENDIX

The following constitutional amendments, adopted by vote of the people at the general election held November 3, 1936, became effective by virtue of the governor's proclamation on December 2, 1936:

CHAPTER 102

An Act to Provide for the Submission to the Qualified Electors of the State of Montana of an Amendment to Article XVI of the Constitution of the State of Montana by Adding Thereto a Section to be Known as Section 8 Prohibiting the Abandonment, Abolition, and/or Consolidation of Counties in Whole or in Part or at All Except by a Majority Vote of the Duly Qualified Electors in the County or Counties Proposed to Be Abandoned, Abolished and/or Consolidated.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Article XVI of the constitution of the State of Montana be amended as hereinafter provided, and that said amendment be submitted to the qualified electors of the State of Montana at the next biennial regular general election to be held in said state.

Section 2. That Article XVI of the constitution of the State of Montana be and the same is hereby amended by adding thereto a section to be known as Section 8 to read as follows:

"Section 8. Any county or counties in existence on the first day of January, 1935, under the laws of the State of Montana or which may thereafter be created or established thereunder shall not be abandoned, abolished and/or consolidated either in whole or in part or at all with any other county or counties except by a majority vote of the duly qualified electors in each county proposed to be abandoned, abolished and/or consolidated with any other county or counties expressed at a general or special election held under the laws of said state."

Section 3. The regular official ballot provided for by Section 678, R. C. M. 1921, to be used at the election specified in Section 1 of this act shall have printed thereon: "Amendment to Prohibit Consolidations of Counties Except by Vote of the People of Each County Affected", followed by all of said Section 2 of this act.

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That there shall also be printed on said official ballots below the said section, squares and the words following:

☐ For the Amendment.

☐ Against the Amendment.

Each elector shall designate his preference by marking an X in the square before the proposition for which he desires to vote.

Section 4. The votes cast for and against the said amendment at the said biennial regular general election shall be canvassed and counted as provided by the general election laws of the State of Montana and if a majority of all votes cast at said election for and against said amendment shall be in favor of the amendment the governor of the state shall immediately so declare by public proclamation and said amendment shall be in full force and effect as a part of the constitution from and after the date of said election.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Section 6. This act shall be in full force and effect from and after its passage and approval.

Approved March 11, 1935.

CHAPTER 172

An Act for the Submission to the Qualified Electors of the State of Montana of an Amendment to Section Four (4) of Article Eighteen (18) of the Constitution of the State of Montana, Relating to the Hours of Labor in All Industries, Occupations, Undertakings and Employments Except Farming.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section Four (4) of Article Eighteen (18) of the constitution of the State of Montana be amended as hereinafter provided, and that the question of such amendment be submitted to the qualified electors of the State of Montana at the general election to be held on November 3, 1936.

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Section 2. That Section Four (4) of Article Eighteen (18) of the constitution be, and the same is hereby amended to read as follows:

"Section 4. A period of eight hours shall constitute a day's work in all industries, occupations, undertakings and employments, except farming and stock raising; provided, however, that the legislative assembly may by law reduce the number of hours constituting a day's work whenever in its opinion a reduction will better promote the general welfare, but it shall have no authority to increase the number of hours constituting a day's work beyond that herein provided."

Section 3. Separate official ballots shall be provided at said general election, which shall have printed thereon all of said Section Four (4) of Article Eighteen (18) of the constitution, as amended by this act, and below the same shall be printed the words:

☐ For the above written amendment to the constitution.

☐ Against the above written amendment to the constitution.

Each elector shall designate his preference by marking an "X" in the square before the proposition for which such elector desires to vote.

Section 4. The vote cast for and against the amendment above proposed shall be canvassed, determined and declared as provided by the general election laws of the State of Montana.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Section 6. This act shall take effect and be in full force from and after its passage and approval.

Approved March 14, 1935.

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GENERAL INDEX

NOTE:

Index of Appropriations Follows General Index

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